Municipal Secretary's Department

THE LAW OF
Parochial Assessments,

EXPLAINED IN A

PRACTICAL COMMENTARY

ON THE

STATUTE 6 & 7 WILL. 4, CAP. 96;

WITH AN APPENDIX

CONTAINING THE

UNION ASSESSMENT COMMITTEE ACTS, 1862 & 1864; THE VALUATION (METROPOLIS) ACT, 1869; THE POOR RATE ASSESSMENT AND COLLECTION ACT, 1869; AND THE RATING ACT, 1874.

BY

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SEVENTH EDITION.

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PREFACE.

Mr. Lumley, Q.C., in his preface to the Sixth Edition of this work stated:—"The importance of the poor rate is not to be estimated by reference to its own object alone. It is the basis upon which most other parochial taxes are settled and charged; it forms one of the subjects which constitute the qualifications for the enjoyment of parliamentary and municipal franchises; and, in many cases, affords a test of qualification for offices.

"As it is applied, directly, in the raising of six or seven millions annually; and, indirectly, in the raising of several millions of other local taxes (*a*), and of two or three millions of the property and income tax, too much attention cannot be given to the procuring of accuracy in the assessment, with reference both to substance and to form. The property rated ought to be correctly estimated, in regard to amount, and

(*a*) In the year 1878—79 the amount raised for poor rates was £7,942,881, and for other local taxes £17,743,015.—W. C. G.

properly described in the assessment, while the party intended to be assessed should be clearly designated.

"The Act, which was introduced in 1837 by Mr. Poulett Scrope, therefore produced most beneficial results, in causing the proper mode of assessing property to this rate to be distinctly defined by the legislature, and in prescribing uniformity both in the mode of laying that assessment, and in setting it forth in form; while a provision which was then much needed, for procuring the valuation of property, was supplied, under such restrictions as to prevent unnecessary or fruitless expense. At the same time it cannot be denied that it was mainly through the instrumentality of the machinery established by the Poor Law Amendment Act that the statute was carried into full effect.

"The Act, though relating to one subject, embraced three distinct provisions; namely, the principle of assessment, the procuring of valuations, and the providing a less expensive mode of appeal than that previously in force. It appeared to the author of this Commentary when he first compiled it that it would be convenient to bring together the various matters which had occurred in relation to the statute during

the seven years that it had then been in operation, and to show the interpretation which had been given to the language, the general object and purpose, and to the spirit of the Act; and, at the same time, to communicate many practical details, which were not then generally known, and could only be learned through the extended view which the peculiar constitution of the Poor Law Commission afforded. The course then prescribed has been followed in subsequent editions, and is still pursued in the present.

"The statute having been prefixed, the commentaries on the separate sections follow, in which the principles of the Act are explained, and practically applied to the several subject-matters of the assessment; the details which arose in reference to the process of the valuation and the map are fully discussed; and the proceedings attending the appeal and its costs, and the amending or quashing of the rate, are set forth."

When the publishers entrusted me with the responsibility of editing a fresh edition of the late Mr. Lumley's Union Assessment Committee Acts, they at the same time, with a view to the publication of a new edition of his work on the Law of Parochial Assess-

ments, requested me to revise the last edition, which was published in the year 1872, and to make the work conformable with the law as it now exists.

I accepted the task of editing new editions of Mr. Lumley's valuable works on the above mentioned subjects with hesitation, and with a full sense of the responsibility which attaches to one who followed him in a branch of the law, in regard to which he was, I may say, the recognized legal authority.

I have completed the revision of both works, and now place the present one before the public trusting that its high reputation as a reliable authority on the subject upon which it treats will be sustained in the future.

W. C. G.

3, Elm Court, Temple,
February, 1882.

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THE STATUTE.

[For the *interpretation* of the words used in the statute, see page 171.]

6 & 7 WILL. 4, CAP. 96.

An Act to regulate Parochial Assessments.

[19th August, 1836.]

"WHEREAS it is desirable to establish one uniform "mode of rating for the relief of the poor throughout "*England* and *Wales*, and to lessen the cost of appeal "against an unfair rate:" Be it enacted, that from and after such period, not being earlier than the twenty-first day of March next after the passing of this Act, as the Poor Law Commissioners shall by any order under their seal of office direct (*a*), no rate for the relief of the poor in *England* and *Wales* shall be allowed by any justices, or be of any force, which shall not be made upon an estimate of the net annual value of the several hereditaments rated thereunto: that is to say,

All rates to be made on the net annual value of the property.

Of the rent at which the same might reasonably be expected to let from year to year, free of all usual

(*a*) The Poor Law Commissioners, by an order bearing date the 22nd day of June, 1837, appointed the 29th day of September, 1837, as the time when this Act should come into operation.

tenants' rates and taxes, and tithe commutation rent-charge, if any, and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain them in a state to command such rent:

Proviso. Provided always, that nothing herein contained shall be construed to alter or affect the principles or different relative liabilities (if any) according to which different kinds of hereditaments are now by law rateable (*a*).

Rates to be made in a given form. 2. And be it further enacted, that every such rate made after the said period shall, in addition to any other particular which the form of making out such rate shall require to be set forth, contain an account of every particular set forth at the head of the respective columns in the form given in the schedule to this Act annexed (*b*), so far as the same can be ascertained;

And the churchwardens and overseers, or other officers whose duty it may be to make and levy the said rate, or such a number of the said churchwardens and overseers or other officers as are competent to the making and levying of the same, shall, before the rate is allowed by the justices, sign the declaration given at the foot of the said form; and otherwise the said rate shall be of no force or validity (*c*):

Nothing herein to Provided always, that nothing herein contained shall

(*a*) See the Commentary on page 10. This clause is repealed in the Metropolis by 32 & 33 Vict. c. 67, s. 77.

(*b*) See page 9, *post*.

(*c*) See *post*, page 191, the declaration required by the statute 25 & 26 Vict. c. 103.

be construed to prevent the owners of tenements from compounding for the rates to be assessed on the same, in such manner as they were by any statute or statutes enabled to do before the passing of this Act, so that the gross estimated rental of the hereditaments compounded for be entered on the rate in the proper column (*d*).

Prevent owners from compounding for rates.

3. And be it enacted, that when it shall be made to appear to the Poor Law Commissioners by representation in writing from the board of guardians of any union or parish under their common seal, or from the majority of the churchwardens and overseers or other officers competent as aforesaid to the making and levying the rate, that a fair and correct estimate for the aforesaid purposes cannot be made without a new valuation, it shall be lawful for the Poor Law Commissioners, where they shall see fit, to order a survey, with or without a map or plan, on such scale as they shall think fit, to be made and taken of the messuages, lands, or other hereditaments liable to poor rates in such parish, or in all or any or one or more parishes of such a union, and a valuation to be made of the said messuages, lands, and other hereditaments according to their annual value, and to direct such guardians to appoint a fit person or persons to make and take every such survey, map, or plan, and valuation, and to make provision for paying the costs of every such

Power to order new survey and valuation.

(*d*) See the Commentary on page 146. This clause is repealed in the Metropolis by the Act 32 & 33 Vict. c. 67, s. 77.

survey, map, or plan, and valuation, either by a separate rate or by a charge on the poor rates, as they may see fit;

But in case of such charge being made, then provisions shall be made for paying off not less than one fifth of the sum charged on the rates, and such interest as may from time to time be payable in respect of such charge or any part thereof, in each succeeding year, till the whole is repaid (*a*).

Power for surveyors to enter and examine lands, &c., for purposes of survey and plans.

4. And be it further enacted, that for the purpose of making every such survey, map, or plan, and valuation, it shall be lawful for the person or persons so to be appointed for making the same respectively, together with their and every of their assistants and servants, at all reasonable times, until the same respectively shall be completed, to enter, view, and examine, survey, and admeasure all and every part of the messuages, lands, and other hereditaments aforesaid, and to do, or cause to be done, any act or thing necessary for making such survey, map, or plan, and valuation:

Provided always, that any map, survey, plan, or valuation made previously to the appointment of such person or persons which shall be tendered to him or them, and which shall be in his or their judgment, and to his or their satisfaction, a just and true map or survey, proper for the purposes aforesaid, may be used for such purposes (*b*).

(*a*) See the Commentary on page 150.
(*b*) See the Commentary on page 174.

Power to take copies or extracts of rates gratis.

5. And be it further enacted, that it shall be lawful for any person or persons rated to the relief of the poor of the parish in respect of which any rate shall be made, at all seasonable times, to take copies thereof or extracts therefrom, without paying anything for the same, anything in any Act of parliament to the contrary notwithstanding:

Penalty for refusal to permit.

And in case the person or persons having the custody of such rate shall refuse to permit, or shall not permit such person or persons so rated as aforesaid to take copies thereof or extracts therefrom, the person or persons so refusing or not permitting such copy or extracts to be made, shall forfeit and pay any sum not exceeding five pounds, to be recovered in a summary way before any justice of the peace having jurisdiction in the parish or place (*c*).

Justices acting in petty sessions to hold four special sessions in the year to hear appeals.

6. And be it enacted, that the justices acting in and for every petty sessions division shall, four times at least in every year, hold a special sessions for hearing appeals against the rates of the several parishes within their respective division, and shall cause public notice of the time and place when and where such special sessions will be holden, to be affixed to or near to the door of the parish church of the said parishes twenty-eight days at the least before the holding of the same;

And such special sessions shall and may be adjourned from time to time by the justices there present, as they may think fit;

(*c*) See the Commentary on page 175.

And at such special or adjourned sessions the justices there present shall hear and determine all objections to any such rate, on the ground of inequality, unfairness, or incorrectness in the valuation of any hereditaments included therein;

Which decision shall be binding and conclusive on the parties, unless the person or persons impugning such decision shall within fourteen days after the same shall have been made cause notice to be given in writing of his, her, or their intention of appealing against such decision, and of the matter or cause of such appeal, to the person or persons in whose favour such decision shall have been made; and within five days after giving such notice shall enter into a recognizance before some justice of the peace, with sufficient securities, conditioned to try such appeal at the then next general sessions or quarter sessions of the peace which shall first happen, and to abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions, or an adjournment thereof;

And such justices, upon hearing and finally determining such matter of appeal, shall and may, according to their discretion, award such costs to the party or parties appealing or appealed against, as they shall think proper; and their determination in or concerning the premises shall be conclusive and binding on all parties, to all intents and purposes whatsoever;

Seven days' notice to be given of objections.

Provided always, that no such objection shall be inquired into by the said justices in special session unless notice of such objection in writing, under the

hand of the complainant, shall have been given, seven days at least before the day appointed for such special session, to the collector, overseers, or other persons by whom such rate was made;

Provided also, that the said justices in special session shall not be authorized to inquire into the liability of any hereditaments to be rated, but only into the true value thereof, and into the fairness of the amount at which the same shall have been rated (*a*). Proviso.

Justices may act with all the powers of justices in quarter sessions.

7. And be it enacted, that the justices present at any such special or adjourned session shall, for the aforesaid purpose, have all the powers of amending or quashing any such rate so objected to of any parish or other district within their division, and likewise of awarding costs to be paid by or to any of the parties, and of recovering such costs, which any court of quarter sessions of the peace has upon appeals from any such rate, except as herein excepted;

Provided always, that no order of the said justices shall be removed by *certiorari* or otherwise into any of His Majesty's courts of record at *Westminster:*

Provided also, that nothing in this Act contained shall be construed to deprive any person or persons of the right to appeal against any rate to any court of general or quarter sessions:

Provided also, that no order of the said justices in special sessions shall be of any force pending an appeal

(*a*) See the Commentary on page 180. This clause is repealed in the Metropolis by the Act 32 & 33 Vict. c. 67, s. 77.

touching the same subject-matter to the court of general or quarter sessions of the peace having jurisdiction to try such appeal, or in opposition to the order of any such court upon such appeal (*a*)

Act confined to England and Wales.

8. And be it enacted, that this Act shall extend only to *England* and *Wales*.

(*a*) See the Commentary on page 185. This clause is repealed in the Metropolis by the Act 32 & 33 Vict. c. 67, s. 77.

SCHEDULE to which this Act refers.

Form of Rate.

An Assessment for the Relief of the Poor of the Parish of Merton, in the County of Surrey, and for other purposes chargeable thereon according to Law, made this Thirtieth day of March, in the year of our Lord One Thousand Eight Hundred and Thirty-seven, after the rate of Sixpence in the Pound.

No.	Arrears due or if excused. £ s. d.	Name of Occupier.	Name of Owner.	Description of Property rated.	Name or Situation of Property.	Estimated Extent. A. R. P.	Gross Estimated Rental. £ s. d.	Rateable Value. £ s. d.	Rate at 6d. in the Pound. £ s. d.
1	- - -	Jas. Smith	Jno. Green	Lands and Buildings.	Whiteacre Farm.	40 0 0	60 0 0	55 0 0	1 7 6
2	- - -	Ditto	Ditto	House and Garden.	In West Street.	0 1 0	30 0 0	25 0 0	0 12 6
3	- - 7½ Excused	John Poor	Ditto	House.	In Brick Lane.	- - -	1 10 0	1 5 0	0 0 7½
&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.

Declaration of Overseers and Churchwardens.

We, do declare the several particulars specified in the respective columns of the above rate to be true and correct, so far as we have been able to ascertain them, to which end we have used our best endeavours.

THOMAS JONES, *Overseer.*

JOHN THOMAS, [*Churchwarden, &c., &c.*] (*b*).

(*b*) See Commentary on the Schedule, at page 189, and the declaration required by the 25 & 26 Vict. c. 103.

THE COMMENTARY.

COMMENTARY ON THE FIRST SECTION.

Object of the Parochial Assessment Act.

THE alteration in the administration of the poor law effected by 4 & 5 Will. 4, c. 76, speedily drew attention to the irregular and unequal mode in which the poor rate was assessed in a great part of the country. The Parochial Assessment Act of 1836 was passed to remedy the many abuses and irregularities which prevailed in the imposition of this tax. No previous statute had defined the precise mode of assessing property to the poor rate, or had prescribed the form in which the rate was to be made, although the 17 Geo. 2, c. 38, s. 13, required copies of all rates to be fairly entered in books, to be provided by the overseers. But the principle of the assessment of land had been established by numerous judicial authorities.

Poor rate, how imposed by the statute 43 Eliz. c. 2

The statute 43 Eliz. c. 2, s. 1, in general terms imposed the rate "upon every inhabitant, parson, vicar, and other, and upon every occupier of lands, houses, tithes impropriate, propriations of tithes, coal mines, or saleable underwoods." The charge was thereby imposed upon "the inhabitant" as such, and upon the "occupiers of lands." The former were assessable in respect of their personal property, but the subject-matter of

the rate so far as it related to the second branch of the enactment, was the occupation of the different kinds of landed property therein enumerated. The consideration of the charge upon persons in respect of their personal estate having, for reasons to be stated hereafter, ceased to be of present practical importance, will be now relinquished, and attention will be directed to the charge upon the occupiers of real property. The occupation of the land must not be that of a mere licensee, as, where the owner of grass lands advertised a sale by auction for a period of ten months, one condition being that the purchaser should keep the fences in repair, and lay down manure, all taxes being paid up to the time of sale, and the owner to continue to pay such taxes,—the purchaser was held not to be the occupier, being only a licensee, but the owner was the occupier: *Mogg* v. *Yatten*, 45 J. P. 324. The tax being imposed upon the occupier of lands in respect of the occupation, it becomes necessary to ascertain the value of that occupation to the occupier. When the occupier is a tenant, and not the owner, it is easy to ascertain the value of that occupation, by reference to the sum paid for it. But it is not so easy to ascertain the value of the land when in the occupation of the owner. As, however, the value of every matter is ascertained by its exposure to sale in an open market, so the value of the occupation of land may be determined by ascertaining the sum of money which has been given by, or may be expected to be obtained from, any person who would, in the face of an open competition, agree to take and pay for the occupation of the land during some given period.

How far rent is a criterion of value.

The sum which is, or would be, so paid for the occupation of the land, is the rent; and according as that sum is paid down at once, or in portions periodically, it represents the value of the occupation during the time stipulated for such occupation. As the assessment to the poor rate is made periodically, and upon the value of a periodical occupation, the rent will form a proper criterion of the value of the occupation of the land, if it represent the actual value of such occupation during the successive portions of that period. But if a sum in gross is paid at the commencement of a term, and a small sum is paid at successive or different periods during that term, for the occupation of the land, it would be improper to take this latter sum as the value of the land during the whole term, or at any particular time in that term. Again, if an amount have been stipulated to be paid during a long term of years, and circumstances cause the value of the occupation to be increased or lessened before that term shall have expired, the sum so agreed to be paid would not truly represent the value of the occupation of the land after such improvement or depreciation.

So, from peculiar circumstances or motives, the rent reserved even where no fine has been paid, may be below the actual value. The property may be low rented. In a case in the Court of Queen's Bench, BLACKBURN, J., pronounced this judgment:—"The legislature has stated that the estimate according to which the rate shall be calculated shall be, not the actual rental paid, but the rent at which the premises might have been reasonably expected to let from year

to year. The rent actually paid is no doubt *primâ facie* the estimate, but it is not conclusive. Here the premises might have been let at a larger sum than that demanded by the landlords, and the rate should have been calculated on that amount: *Hayward,* app., *Overseers of Brinkworth,* resps., 10 L. T. (N. S.) 609.

On the other hand, it has been considered that what is known as a fancy rent, being a rent paid for property which adjoins other property of the tenant, is not a correct criterion of the annual assessable value. *Per* Dr. LUSHINGTON:—"I am of opinion that the actual rent is not a safe test of the relative value of lands. The actual rent of a property may be affected by special circumstances quite independent of its value, *e.g.*, by the character of the landlord according as he seeks a moderate and sure, or a high and uncertain return; the position of the tenant, who may be willing to give what is called a fancy rent for the property, as adjoining other lands which he uses or occupies; by the special terms of the agreement between the tenant and the landlord as to what shall be done or paid by them respectively; and by the extent of the property, it being notorious that small holdings generally let proportionately at a higher rate than larger ones do:—*Edwards* v. *Hatton,* Law R. 1 Eccl. R. 31; 12 L. T. (N. S.) 692.

Sometimes the annual assessable value, which is termed a rent, and is reserved upon a lease, is in fact a compensation for something more than the occupation of the land, and therefore cannot properly form the basis of the valuation. This has been shown in a case

where a railway was, with all its incidental rights, privileges, and advantages, let on lease by one company to another at a fixed rent, and it was held that this rent could not be taken as conclusively determining the annual value of the railway, since many other matters were taken into consideration by the railway company hiring the line as an inducement to their agreeing to pay the rent: *South Eastern Railway Company* v. *Dorking*, 18 Jur. 673; 23 L. J. R. M. C. 85; 3 E. & B. 491; *Reg.* v. *Eastern Counties Railway*, 23 L. J. R. (N. S.) M. C. 96; 18 Jur. 679, *n.* Thus, a sum paid by way of rent by a railway company to guarantee a certain rate of profit to a canal company was not a criterion of the annual value of the canal: *Reg.* v. *Overseers of Lapley*, 9 B. & S. 568. Though where the rent represented the fair valuation at the time of the hiring, it was considered to represent the annual value of the property rented, though circumstances occurred to render the occupation of little or no value to the railway company before the expiration of this lease: *Reg.* v. *Fletton*, 3 L. T. (N. S.) 689; 3 E. & E. 450; 30 L. J. M. C. 89; 7 Jur. 518; 25 J. P. 100, confirmed by *Reg.* v. *Lord Sherard*, 33 L. J. M. C. 5; 33 L. T. 72. Where, however, circumstances occur which prevent the premises from being occupied for the purpose to which they were appropriated, the assessable value will not be estimated by the rent or by the rental value settled with reference to that purpose. Thus, factories which ceased to be workable as such by reason of the "cotton famine," were held not to be assessable at their value as when worked, though they were assessable as warehouses for the storing of machinery, where the same was kept in them: *Reg.* v. *Overseers of Cas-*

tleton, 33 L. J. M. C. 178 ; 5 B. & S. 505; 10 L. T. (N. S.) 605; *Harter,* app., *Overseers of Salford,* resps., 34 L. J. M. C. 206; 6 B. & S. 591.

So also as regards blast furnaces "out of blast." If such a property were to be entirely abandoned as a blast furnace, and all the necessary machinery and material removed from the premises, the case would be like that of an empty house in the intervals of letting, and it would not be rateable; but when the fires merely are blown out, and the property is so far disused as a blast furnace, it is still occupied as a store-place for the machinery or material, and, as such, is rateable according to its annual value as a store-place merely. It appears to be impossible to distinguish a blast furnace out of blast with the machinery or material on the premises, from the case of a closed mill in which the machinery is left, as in *Stayley* v. *Castleton,* and *Harter* v. *Salford.* It is, like the closed mill, kept up for the purpose of keeping the machinery together, and the question in both cases is precisely the same, namely, what the premises would let for to a hypothetical tenant, "who had the capacity to make such a use of them as could be made by a tenant."

As regards a furnace "out of blast" in order that repairs may be done, it is liable to be rated precisely as if it were in full work. In such a case the rent which a hypothetical tenant would have to pay would not be lessened because he stopped working the furnace whilst the repairs were being executed; and there is no distinction between this description of property and any

other manufactory or shop which is closed temporarily whilst repairs are being executed.

The fact that a future return of the means of working may be expected, does not affect the question, which depends on the state of the premises when it arises.

Hence, although the periodical payment of rent may be properly taken as generally affording a correct criterion of the periodical value, it cannot be taken as conclusively determining the annual value in all cases.

Value of land to be ascertained by reference to a period.

The value of the periodical occupation is therefore ascertained by a suppositious estimate, which refers to the sum that would be paid for the occupation under ordinary and usual circumstances during the particular period, if the subject-matter occupied continued to be of the same intrinsic value. That period might be a day, a month, a year, or any number of years; but for almost all purposes of assessment the period of a year has been adopted, and the customary inquiry is, what is the value of the occupation for a year; or, in other words, what is the annual value?

The rate to be imposed according to the annual value.

According to the effect of the statute of Elizabeth, as established by the decisions above referred to, the assessment to the poor rate of the occupiers of land should be calculated upon the annual value of their occupation of the property rateable.

In the case of *Rex* v. *Adames*, 4 B. & Ad. 67, the Court of King's Bench laid down this principle, namely, "that the rate should be imposed according

to some value of the subject-matter of the occupation. Usage and convenience have" (the court say) "established this value to be not that of the estate or property itself, but that of the profit which is or might be made from the estate or property;—and the rule has been to assess according to the annual profit of the land, or where the produce is not matured in one year, then upon an average of years; from which profit deductions are allowed for all the expenses necessary to its production."

"If the subject of occupation be of a perishable nature, or require an annual expense to secure its existence, an allowance ought to be made on this account, for the total annual profit is not the net annual profit; a part must be set aside for the restoration and maintenance of the subject of occupation. It is on this principle that buildings have been permitted to be rated at less in proportion than arable or other land."—"This rule of rating is established—All lands are to be assessed in proportion to the net rent which a tenant at rack-rent would pay, he discharging all rates, charges, and outgoings."

This decision was pronounced in 1832, yet there was so great a diversity in the application of the rules thus expressed by the court, that four years afterwards the statute now under consideration was passed.

The 1st section of that statute applies to the principle of the valuation, and declares that the rate shall be made "upon the estimate of the net annual value of Provision of 6 & 7 Will. 4, c. 96, s. 1.

the several hereditaments rated thereunto." The term net is here introduced, and imports something other than the meaning above given to the terms "annual value." Accordingly, the statute proceeds to define the meaning of the net annual value as follows: "that is to say, the rent at which the same might reasonably be expected to let from year to year, free from all usual tenants' rates and taxes, and tithe commutation rentcharge, if any, and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain them in a state to command such rent."

The annual value of the premises is expressed by the first part of the clause, namely, the rent at which the same might reasonably be expected to let from year to year, free from all usual tenants' rates and taxes, and tithe commutation rentcharge. The subsequent matters introduced do not affect the value of the occupation, but the actual profit received by, or resulting to, the owner of the land, and so far affect what may be considered as the net annual value. These are the deductions for repairs and insurance.

All the large manufactories in manufacturing districts are, as a rule, in the occupation of the owners, and large manufactories are not built like ordinary house property as an investment or to let to tenants from year to year, therefore in practice a tenant of a large manufactory can hardly be found, and in order to estimate the annual value or the rent at which a manufactory might reasonably be expected to let from year

to year, "a hypothetical tenant must be assumed," and as Mr. Justice WIGHTMAN said, "the terms of such tenancy are not difficult to be conceived, the occupying tenant must be assumed to pay adequate remuneration to a contractor for land and fixed capital vested therein. . . . . And the local rateable value would be such a sum as would pay the rent of the land and profit on the fixed capital therein." And Mr. Justice BLACKBURN, in a case of the rating of a lighthouse, said, "It is for the sessions to say what would be fair rent to be given for the ground and fair interest on the expense of building the light-house." And the same learned judge decided that "the rent which would be paid by the hypothetical tenant must decide the value."

In the case of large mansions or castles, such as Chatsworth and Alnwick Castles, when in the occupation of the owners, a tenancy from year to year is too short a period of letting to be assumed, for it is clear that a tenant would not give so much on such a tenancy as if he got the mansion or castle on a seven years' lease; and as COCKBURN, C. J., in *Clive* v. *Foy*, said, "If you rated it on that principle you would rate it much below its value, which ought not to be done." (*Hedley on Rating Mansion-Houses*, p. 28.) But as property of this description is not built to let to ordinary tenants, and is not capable of yielding direct annual profit or rent, instead of assessing a tenancy the usual course is to assess the amount which the property would fetch in the market, and upon that to calculate the gross annual value at 3 per cent. upon the capital sum. So with regard to a public hospital,

which is liable to be rated (*London, Mayor of* v. *Stratton*, L. R. 7 E. & I. App. 477), a hypothetical tenant must be assumed, for such a building under ordinary circumstances is not capable of being let to a tenant, and the value for purposes of local taxation would be the rent of the land and adequate remuneration for the fixed capital invested in the building (*Reg.* v. *West Middlesex Waterworks Co.*, 28 L. J. M. C. 135). So also with regard to a lighthouse attached to a dock for the purposes of the dock, the value of the occupation would be a fair rent for the ground on which it stands, and fair interest on the expense of building the lighthouse (*Blythe Harbour and Dock Co.* v. *Tynemouth, Glen's Poor Law Statutes*, Vol. I., p. 41).

Why the taxes and tithe rent-charge to be deducted.

The taxes payable by a tenant in respect of his occupation do not render that occupation intrinsically less valuable, but they may perhaps prevent him from paying so much rent as he would do if no such taxes were payable. The tithe rentcharge is substituted for a claim on the part of the tithe-owner to a portion of the produce when raised, and is the subject of a separate assessment in the hands of such tithe-owner; but the occupier, who is liable to that demand, will give less rent for the occupation of the land than he would do if no such demand could be made.

Inasmuch, therefore, as those charges in fact diminish the rent, the value of the land to the owner is thereby lessened. As, however, the tithe rent-charge is rated in the hands of the tithe-owner, the whole value of the land in reference to the assessment is not diminished

by that charge, though there is a division of the parties who are to be assessed.

Nevertheless, there appears to be an error in the present state of the law. The tithe formerly was part of the produce of the land. Hence, a rate upon the tithe was a rate upon the produce, which in itself represents not only the occupation of the land, but also the capital and labour spent upon the land; so that, while the farmer is only assessable upon the occupation of the land, the tithe-owner is assessable upon that which represents such occupation, and also the capital employed upon it. That capital is not, however, laid out by the tithe-owner, and his rentcharge has been fixed and settled with reference to the consideration of his having to pay the assessments upon that rent. A commutation of tithe, calculated with reference to a future exemption from rates and taxes, would have been more correct in principle, and more satisfactory to the tithe-owners. This course has been occasionally pursued wherever tithes have been commuted under local Acts, the construction whereof depends upon their particular language. See *Chatfield* v. *Ruston,* 3 B. & C. 363; *Mitchell* v. *Fordham,* 6 B. & C. 274; and *Reg.* v. *Shaw,* 12 Q. B. 419; 17 L. J. R. M. C. 137.

The 23 & 24 Vict. c. 93, s. 1, enables such commutations under local Acts (which are there termed corn rents) to be converted into rentcharges, but renders such charges free from parochial rates and taxes, where the previous corn rents were free and exempt.

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If the owner who occupies his own land is required to pay taxes or tithe rentcharge in respect of his occupation, the value of the land to him is so far diminished.

Tithe-free land.

Where land is tithe-free, no deduction upon this head is to be made, as the statute only provides for the allowance of tithe rentcharge (if any); but the value of the land to be assessed in this case is the greater to the occupier in consequence of the exemption, and the amount of his rate is greater than that of his neighbours who occupy tithable lands, and hence no difference will exist in the general valuation of all the property in the parish.

Why the other deductions are to be made.

It might be said that the deduction of "the probable average annual costs of the repairs, insurance, and other expenses, if any, necessary to maintain the premises in a state to command the rent estimated as the annual value," is a positive provision of the legislature, and that it is not necessary to seek any explanation of the principle of the law. Nevertheless, the provision itself is supported by the doctrine of the court, expressed in the case of *Rex* v. *Adames*, above cited, and by reasons of weight.

Repairs.

First. As regards the deduction for repairs. It must be observed, that the value of the occupation of the lands is taken upon an estimate deduced from the supposed value during several years (though it is expressed in the terms "from year to year"), and it is presumed that this estimate would be correct for

several years to come. If, then, the subject of the valuation be buildings, canals, or railways, which deteriorate with every year's occupation and use, unless properly sustained and repaired, it is manifest that the estimate would speedily become incorrect. It is, however, presumed that the owner or occupier will not suffer that deterioration to take place, but will cause such amount of repairs to be annually expended upon the premises as will keep them in the same condition as when the estimate of the value is first taken. A probable future outlay cannot in strictness be considered as affecting the present value of the property, but it is necessary to be considered when an estimate is formed of a prospective value during some period which is to come.

And insurance.

Secondly. As to the insurance. The insurance of property is but a precautionary measure against a remote contingency. It is an act of prudence on the part of the insured, which does not affect the value of the property at the particular time of the estimate. Yet, as the estimate is formed for a prospective period, during which time the property may be destroyed by fire, it is thought right to allow for an outlay which would be the means of restoring the property so destroyed, and which most men of ordinary prudence at the present time incur. Hence, an allowance for insurance is to be made, whether that insurance be or be not in fact effected.

The insurance may be paid by the landlord or the tenant; nevertheless, the occupier is entitled to the

deduction, because it must be assumed that he recoups the landlord for the expenditure in the rent.

Other expenses.

Thirdly. As to the other expenses. These are not expressed, but their nature is described, and it will be seen that they must correspond with the subject of deductions already named, though the Court of Queen's Bench on one occasion gave a peculiar signification to these words with reference to the valuation of the tithe rentcharge. According to the language of the statute, they must be such as may be necessary to maintain the tenement in a state to command the estimated rent, but that court then interpreted these words in a manner not strictly in accordance with their literal meaning, which interpretation has since, however, been repudiated.

The subject of the deductions, however, will be pursued more at length hereafter.

Meaning of the terms gross estimated rental in the statutes.

Although the legislature thus defined, in the 1st section, the net annual value which was to be the subject of the rate, in sect. 2 reference is made to the gross estimated rental in regard to the rate on compound hereditaments; and in the form of the rate given in the schedule there is a column for the gross estimated rental. Of this term no definition or explanation was given, either in that statute or elsewhere. The meaning of the word rental is not clearly ascertained, and it is manifest that it is not properly applicable in this statute, in which apparently the better term would have been value.

Upon the passing of the Act, however, the Poor Law Commissioners expressed their opinion upon the meaning of the statute by giving definitions of gross rent and net rent.

Gross rent they defined in their circular letter, dated 22nd June, 1837, to be "the rent which would be paid to a landlord, who himself undertakes to pay all the usual tenant's rates and taxes with which the hereditaments or premises rented by the tenant are chargeable, together with tithe commutation rentcharge, the expense of upholding the buildings in tenantable repair, insurance against loss by fire, and any other expenses (if any shall exist) necessary to maintain such hereditaments in a state to command such gross rent." See their 3rd Ann. Rep., p. 22. Gross rent defined.

Net rent they defined to be "the amount which is received by, or which remains clear in the hands of a landlord after all such taxes, charges, and expenses as are above enumerated shall have been provided for." Net rent defined.

In the above-cited case of *Rex* v. *Adames*, the Court of Queen's Bench laid down the doctrine that the rate was to be laid on the net annual profit.

Experience shows that there are three classes of cases upon this subject, in respect of the relation between the landlord and the tenant. Three classes of cases.

1. The landlord may agree to pay all the tenant's rates and taxes chargeable upon the premises, to repair the same, and to insure the property.

2. The landlord may agree to repair and insure; leaving the tenant to pay the tenant's rates and taxes.

3. The landlord may require his tenant to repair and insure, as well as to pay all the rates and taxes levied on the latter.

In the first case, the landlord receives more than the annual value of the land; he receives a sum in respect of the rates and taxes which the tenant ought to pay, and consequently, in any estimate of the value of the present occupation, formed upon the basis of the rent so paid, the amount of those rates and taxes ought to be deducted.

In the second case, the rent paid is a proper representative of the annual value.

In the third case, the rent paid is less than the annual value of the occupation of the land; inasmuch as the tenant undertakes part of the charge that properly falls upon the landlord, namely, the repairs and insurance, and consequently what he pays as the rent is only a part of the sum paid for the occupation.

This is shown by the following illustration:—Suppose a landlord lets a house in good repair for a year at a certain sum, the tenant being only bound to occupy it with ordinary care, and not being under covenant to leave it in complete repair, that sum represents the value of the occupation to the tenant. At the end of the year the house may be found to be damaged by the year's reasonable use and occupation, and out of

the rent then paid the landlord must expend the requisite amount to render it fit for another tenant. But if, besides paying a sum for rent, the tenant undertake to keep in repair during the term, it is obvious that the rent so paid is less than the annual value of the occupation, because the tenant not only pays that rent, but lays out an additional sum of money in repairs.

How to obtain the net annual value.

But as to obtain that which the statute calls the net annual value, the amount of the repairs and the insurance must be deducted from the gross rent, the rent paid in the third case would upon the supposition that it has been adjusted according to all due proportions, be the net annual value contemplated by the statute, being the clear profit in the hands of the landlord.

And the gross rental

It seems, therefore, in this view of the statute, that to obtain the gross rental the intrinsic value of the tenant's occupation of the land must be estimated; to this must be added the amount of tenant's rates and taxes, and tithe commutation rentcharge, which must be considered as his liabilities, together with a probable estimate for repairs and insurance, which are the landlord's liabilities. The aggregate would be the gross rental, or, as it should have been termed, the gross annual value.

Again, to obtain the net annual value, from this gross rental must be deducted the tenant's rates and taxes, and tithe commutation rentcharge, and the probable estimate for repairs and insurance.

Illustration of the principles.

The following calculations illustrate the observations which have been made:—

If the tenant pays—

In rent	£75
In rates, taxes, and commutation tithe rent	10
For repairs	5
And for insurance	1
The gross rental would be	£91

If from this sum of 91*l.*, the several sums of 10*l.*, 5*l.*, and 1*l.* be deducted, the result will be 75*l.*, the net annual value, being the sum which in this case is paid to the landlord.

Again, suppose (the landlord covenanting to pay for repairs 5*l.*, and insurance 1*l.*) the tenant pays in rent	£81
In rates, taxes, and tithes	10
The gross rental will be	£91
But in like manner the taxes, the repairs, and insurance are to be deducted	16
And the net annual value will be	£75

Lastly. Suppose the tenant to pay 91*l.* as gross rent, paying no other charge whatever, and the landlord pays for rates and tithes 10*l.*, for repairs 5*l.*, for insurance 1*l.*, the net annual value to the latter will be 75*l.*

Indeed, with reference to the assessment, it is immaterial how these different charges are distributed between the landlord and the tenant, as they are all to be taken into consideration in determining the assessable value in accordance with this statute.

This view of the statute, which had been expressed by the Poor Law Commissioners in the letter above referred to, afterwards in their circular letter of September 16, 1840, upon the rating of tithe, and in their general report upon local taxation published in 1840, was maintained by them for a long series of years. But in 1859 the Poor Law Board were led to doubt the accuracy of the previous exposition, and deemed it right to consult the then law officers of the Crown, and Mr. Tomlinson, as to the proper meaning of the term, "gross estimated rental," in this statute. Those counsel gave their advice in the following terms:—"We understand by gross estimated rental, the rent at which the property might be expected to be let, free of tenant's rates and taxes, and tithe commutation rentcharge, the tenant taking these burthens upon himself; and we suppose that in practice the column is usually filled up, so far as regards corporeal hereditaments, with figures expressing, or approximating to the conventional or rack-rent on a tenancy from year to year. After making the deduction therefrom of average repairs, &c., the rateable value of such property is arrived at."

This opinion the Poor Law Board circulated in a letter dated May 9, 1859, addressed to the church-

wardens and overseeers of all the parishes in England and Wales.

It will be seen that in this explanation there is an interpolation of the words, "the tenant taking these burthens (*i.e.*, the rates, taxes, and tithe rentcharge) upon himself," so that the statute is read as if the words "subject to" had been inserted in the clause for "free of."

Again, reference is made to "the conventional or rack-rent." But there is no legal definition of these words, neither can it be said that there is any settled popular meaning thereof. The term "conventional" is certainly not a word commonly used, and, as to "rack-rent," the only meaning thereof (generally recognized) is a rent approximating to the real annual value as distinguished from a ground or quit rent, which words signify little more than an acknowledgment of tenancy. The words "rack-rent" are indeed used in the Property Tax Act, 5 & 6 Vict. c. 32, without any specific explanation, though some definite rules are laid down for obtaining the net annual value of property assessable under that Act. A definition of the term "rack-rent" is also given in the Public Health Act, 1875, 38 & 39 Vict. c. 55, s. 4.

The result of the explanation given in this latter circular letter appears to be this, that before entering the sum in the column for the gross estimated rental, there must be a deduction in respect of the rates and taxes; so that where the tenant pays the full rent, and also the rates and taxes, the sum paid as the rent is to be inserted, but where the tenant pays a certain rent, and

the landlord pays the taxes, the amount paid for the latter is to be deducted from the sum paid for the rent, and the balance is to be entered in the column for the gross estimated rental.

On a careful consideration of the subject, it will be seen, that, whichever course be adopted, the net rateable value will be the same. According to the circular letters of the Poor Law Commissioners, the net rent, the taxes, and the repairs, are all to be added together to form the gross estimated rental, and the taxes and the repairs are to be deducted to give the rateable value. But, according to the later circular of the Poor Law Board, the rates and taxes will not be estimated at all on either side, so that it will only be necessary to deduct the cost of the repairs from the gross estimated rental to elicit the net rateable value.

In the rating of ordinary house property, and farms or land occupied under distinct rents, no difficulty need arise whichever rule be acted upon. But in regard to rateable properties, of which the annual value can only be ascertained from calculation of the actual receipts or earnings, where gross sums are to be dealt with and reduced by numerous items of deductions, the specific charges for the rates and taxes must be taken into the consideration, and must appear in the calculations, though, as regards them, it will be immaterial whether the amount appear in the column for the gross estimated rental or not.

In all the cases which have come before the courts since the statute involving questions as to the deduc-

tions to be allowed in the rating of railways, canals, and similar properties, and in the rating of the tithe rentcharge, deductions have been allowed in respect of rates and taxes.

Gross earnings entered as gross estimated rental.

It is right to notice that in many parishes the gross earnings or annual returns in the parish of railways and canals are stated as the gross estimated rental. The overseers or the assessment committees do not profess to know how else to ascertain this rental, and feel that the accurate statement is immaterial so long as they ascertain the net rateable value. But this statement causes certain errors to exist in some statistical returns.

Gross estimated rental defined.

It is now necessary to observe, that the Act 25 & 26 Vict. c. 103, s. 15, has supplied the deficiency above adverted to, and has given a definion of gross estimated rental. It enacts thus:—"The gross estimated rental for the purpose of the schedule to that Act shall be the rent at which the hereditaments might reasonably be expected to let from year to year free of all usual tenant's rates and taxes, and tithe commutation rentcharge if any."

And then there follows a proviso, "that nothing therein contained shall repeal or interfere with the provisions contained in the 1st section of the said Act (6 & 7 Will. 4, c. 96), defining the net annual value of the hereditaments to be rated."

This definition is, in fact, a repetition of that part of the definition in the 6 & 7 Will. 4, c. 96, s. 1, which, it

was supposed, contained the explanation of "gross estimated rental." As, unfortunately, the language is the same, there is the same ambiguity in the meaning as previously existed. The legislature, though, as it must be presumed, aware of the doubt as to the meaning of the words "free of," nevertheless repeated them.

But the explanations already detailed, which had been given upon the previous statute, may reasonably be applied to the present clause, so that no misconstruction need arise in consequence of the repetition of the language.

It must, however, be admitted that there is ground for argument that the language of both statutes is to be construed according to the literal meaning, and that the proper estimate of the "gross estimated rental" is the rent which the tenant would give if he had no rates and taxes to pay, *i.e.*, if his tenement were free from them. Such a construction would, of course, make the basis of the assessment higher than that which is exhibited by the construction previously explained, because neither statute authorizes in terms the deduction of the rates and taxes or the tithe rentcharge. As regards the rates and taxes, it might be said, that it is indifferent whether they be or be not deducted; but that observation fails in regard to the tithe rentcharge, because the law has expressly provided that it shall be assessed in the name of the tithe-owner. If, therefore, it is not deducted in the estimate of the rateable value of the farmer's occupation, it must be assessed to the poor rate twice. This affords a strong reason for giving a forced

construction to the language; and, though the question has never come properly and distinctly before the court for their decision, it has been incidentally the subject of judicial inquiry.

In the discussion upon the cases relating to the parliamentary franchise before the Court of Common Pleas, where it has been sought to ascertain the meaning of the term clear yearly value, reference has been made to this statute, and in the judgment there it is said, that the "rateable value of property has generally been considered that which it would fairly let for, the tenant bearing all such public burthens as attach to his occupation, and in consequence of disputes as to the principal upon which properties more or less perishable should be rated, the statute 6 & 7 Will. 4, c. 96, was passed, and that statute prescribed the mode of ascertaining the rateable value of all kinds of property; viz., that it should be the net annual value left after making certain deductions specified in the Act from the rent which would be obtained for it." *Per* TINDAL, C. J., in *Colville*, app., *Wood*, resp., 2 M. G. & S. 216. See also *Coogan*, app., *Luckett*, resp., *Ib.* 182.

In *Reg.* v. *Hall Dare*, 5 B. & S. 796; 11 L. T. (N. S) 301; 34 L. J. M. C. 17, SHEE, J., says, "I understand the words 'free of all usual tenant's rates and taxes, and tithe commutation rent charge, if any,' as meaning 'without regard to,' or 'putting aside,' all tenant's rates and taxes which fall on the tenant and tithe commutation rentcharge; and then are to be deducted the

average annual cost of repairs and insurance which the landlord must pay, unless there be an agreement with the tenant otherwise, as well as all other expenses necessarily incurred by the landlord in order to enable the property to command the assumed rent." This, however, only applies to the rateable value, and not to the gross estimated rental.

In the Act for assessing the metropolis, 32 & 33 Vict. c. 67, s. 4, are given the definitions of the words "gross value" and "rateable value" as follows:—

"Gross value means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for an hereditament, if the tenant undertook to pay all usual tenant's rates and taxes, and tithe commutation rentcharge (if any), and if the landlord undertook to bear the cost of the repairs and insurance, and the other expenses (if any) necessary to maintain the hereditament in a state to command that rent.

"Rateable value means the gross value after deducting therefrom the probable annual average cost of the repairs, insurance, and other expenses as aforesaid."

This is a statutory elucidation of the meaning of the terms now under consideration.

These remarks arise upon the general principle of rating property expressed in the statute 6 & 7 Will. 4, Practical remarks on the ap-

plication of the statute.

c. 96; but the following remarks further illustrate the principles of rating :—

In practice, the owners of farms fence and drain the land, build the farm house and buildings necessary for cultivating or working the land, and let the land and buildings together at one rent, and which rent, if the farm is *bonâ fide* let from year to year, is taken as "the amount from which, by the statute, the rateable value is to be arrived at."

And "if a man have a bit of land, and build a house upon it, the occupier will be rateable at the rent at which the house and land would let together."

And "if a man has a house which to-day is let for £30 a year, and by converting it into a shop it would, as a shop, let for £60 a year, it is rateable, on its being converted into a shop, at £60."

And if a man "erect an engine in a house, and the house and engine together would let at a greater rent, the house is rateable as enhanced in value by the engine."

And "it is immaterial whether such improvements or additions be made by the owner or the occupier, the occupier is rateable on the improved value."

And hereditaments are rateable, without reference "to the profits which may or may not be derived by the occupier," and "a party holding property, in its nature rateable, is not discharged from his legal liability because he does it at a loss," and "there is a fallacy in

confounding the rateable value to the poor rate, with the remunerative value to the occupier."

Two farmers may occupy adjoining farms of equal value, the one may farm at a loss, the other at a profit, but the rateable value of the farms is the same.

Two tradesmen may occupy adjoining shops of equal value, the one may make a fortune, the other become bankrupt, but the value of the two shops are not affected by the success of the one or the failure of the other.

So, also, two manufacturers in the same street, carrying on the same kind of business, one makes an annual profit of £2,000, the other, a profit of £1,000: that circumstance, if the respective buildings do not differ in size, etc., cannot render the one liable to be assessed to the rates for the relief of the poor at a higher rate than the other, although each would be assessed to the imperial taxes on the amount of profits they actually made.

And so it is with coal and ironstone mines, the minerals, like the farms, shops, or warehouses, have local ascertained values, and they must be rated to the relief of the poor on these values, irrespective of the profits which may or may not be derived by the occupiers. The profits to be derived from coal and ironstone mines are like other things, largely dependent upon the skill and ability with which they are worked, and their rateability cannot be measured

by the greater or less degree of success with which they are managed.

Whether there is any occupation of land.

A preliminary inquiry sometimes arises as to whether there is any ocupation of the land or premises. This land or premises must be actually occupied by the person proposed to be assessed, for actual occupation irrespective of title is the only circumstance which determines rateability to the poor rate. *Kittow* v. *Liskeard.* 31 L. T. (N. S.) 601; L. R. 10 Q. B. 7; 39 J. P. 325; 44 L. J. M. C. 23.

The principle of occupation and non-occupation with reference to rateability may thus be stated:—

1. If premises (whatever they may consist of) be "in hand," and the owner does not seek for a tenant, does not personally occupy them, and will not let them to an offering tenant, or keeps them as a "show place," then he himself, as owner, occupies the premises, and is liable to be rated for them.

2. If the premises are in hand to let, and the owner does all he can to get a tenant but does not succeed, then the premises are unoccupied, and the owner is not rateable for them.

3. Where premises from whatever cause are practically unlettable, they are not rateable, being incapable of having an occupier.

4. The rateability of any property depends upon whether it has a potentiality of a beneficial occupation, and if it be a bridge or road from which no profit is or can be derived, it is not rateable.

If a person have only a license to use the premises for some purpose without excluding another from occupation, or has only a license or a right to exercise some privilege or to possess some enjoyment in the same, he is not such an occupier as will render him subject to the assessment. Hence, the occupier of furnished lodgings: *Watkins* v. *Milton*, L. R. 3 Q. B. 357, or of refreshment rooms at an exhibition: *Morrish*, app., *Hall*, resp., 32 L. J. M. C. 245, is not liable to be rated. A right of one railway company to use a station belonging to another railway company, which the latter also occupies, does not render the former liable to be assessed as an ocupier of this station: *Reg.* v. *Lord Sherard*, 33 L. J. M. C. 5. But separate properties in one occupation may be rated at their separate value to a tenant, although that value is enhanced by the proximity of the premises to other premises in the same occupation which are a losing concern: *Mersey Docks and Harbour Board* v. *Birkenhead*, 29 L. T. (N. S.) 27; 42 L. J. M. C. 141; L. R. 8 Q. B. 745.

A person to whom dock accommodation, with user of sheds, quay, space, &c., was allotted, but who had not the exclusive possession of the same, was held not rateable; but the docks board were, as they had not parted with the exclusive possession: *Allan* v. *Liverpool; Truman* v. *West Derby and Kirkdale*, L. R. 9 Q. B. 180; 43 L. J. M. C. 69; 38 J. P. 261; 30 L. T. (N. S.) 93.

The owner of a private box at a theatre demised for a long term of years with a grant of an exclusive

right to occupy the box and a small room adjoining whenever any performances take place, and a private entrance to the same in connection with other private boxes was held to be an occupier: *Reg.* v. *St. Martin in the Fields,* 11 L. J. M. C. 412; 3 Q. B. 204; 6 J. P. 656; and so were the occupants of apartments in royal palaces: *Reg.* v. *Lady Ponsonby,* 11 L. J. M. C. 65. Coprolite workings (though peculiar) constitute an assessable occupation: *Roads* v. *Trumpington,* 40 L. J. M. C. 35; L. R. 6 Q. B. 56; 23 L. T. (N.S.) 821. The National Rifle Association were held not rateable for the area of the common land, which they railed in, as they had no exclusive occupation of it, but they were rateable for the store shed which they used for their own purposes: *Mildmay* v. *Wimbledon,* 41 L. J. M. C. 133: 27 L. T. (N. S.) 265.

A license in the nature of an easement to erect advertising hoardings upon land in the possession of the licensee does not create in the licensee an occupation of the soil as to render him liable to be rated in respect of the hoardings. To constitute an occupation of land within the meaning of the Rating Acts by a person erecting hoardings on the premises of another, there must be either a demise to him of the soil on which the hoardings rest, or they must be permanently attached to the soil as a fixture, and give the actual and exclusive possession of such soil to him: *Reg.* v. *St. Pancras Assessment Committee,* 46 L. J. M. C. 243; L. R. 2 Q. B. D. 581; 41 J. P. 403; S. C. 27 L. T. (N. S.) 126.

This point being settled, many matters connected with the occupation require to be noted.

First. It is to observed, that though ordinarily the surface of land and the superstructures upon it are the subjects of assessment, there is no such absolute limitation thereof. Thus there may be an occupation under the surface, as in the case of water or gas works, where the pipes conveying the fluid or vapour lie in the ground, or in that of a tunnel, subway, or underground railway. In all these cases there is a subject for rating though it is below the surface. And where there is an increased value given owing to an extension of the system of supply by reason of the connection of water mains with premises, that would constitute an alteration in the value, so as to increase the value in a supplemental valuation list: *New River Company* v. *Islington Assessment Committee*, 40 L. T. (N. S.) 322; L. R 4 Q. B. D. 309; 43 J. P. 349. But a public sewer which is under the surface is not rateable, because no profit is made from the sewage: *Reg.* v. *Metropolitan Board of Works*, 9 B. & S. 739; L. R. 4 Q. B. 15; 19 L. T. (N. S.) 348: *Metropolitan Board of Works*, app., *West Ham*, resp., L. R. 6 Q. B. 193; 40 L. J. M. C. 15; 23 L. T. (N. S.) 490; 35 J. P. 250.

Occupation under the surface.

Water and gas pipes

So also there may be an occupation above the surface, as in the case of bridges, which, though generally resting upon piers, are assessable in respect of the occupation by the arches above those piers.

Occupation above the surface.

Another apt illustration has occurred in the electric telegraph, which was held rateable in respect of the wires which are stretched in the air, but nevertheless, in such manner occupy the land above and over

which they are hung: *The Electric Telegraph Company* v. *The Overseers of Salford*, 19 Jur. 733; 24 L. J. (N.S.) M. C. 146.

Separate chambers.

Separate chambers, as in the inns of courts, and suites of apartments, as the flats in the new class of buildings in the metropolis, are rated distinctly, though they are sometimes only connected with the surface of the earth by a common staircase: *Reg.* v. *Assessment Committee of St. George's Union*, L. R. 7 Q. B. 90; 41 L. J. (N. S.) M. C. 30; 25 L. T. (N. S.) 696.

Statute 30 & 31 Vict. c. 102, s. 7.

The 30 & 31 Vict. c. 102, s. 7, noticed hereafter, which has taken away the power of rating the owners of dwelling-houses or tenements in parliamentary boroughs, provided that "where the dwelling-house or tenement shall be wholly let out in apartments or lodgings not separately rated, the owner of such dwelling-house or tenement shall be rated in respect thereof to the poor rate." The precise meaning of the words "not separately rated" has not been determined; but it was held in *Stamper* v. *The Overseers of Sunderland*, L. R. 3 C. P. 388; 37 L. J. M. C. 137; 18 L. T. (N.S.) 682, that where several persons occupied separate rooms in a dwelling-house, and had the use in common of the street-door, passage, staircase, and domestic conveniences, the landlord was the proper person to be rated, though he did not occupy any part of the premises nor retain any control over the tenants.

As to the occupation of water.

There may be also an occupation of land covered with water, where in some sense the water is occupied, as in

the case of a dock or of a floating pier, which is nevertheless made a fixture to the land over which, or against which, the water flows. So, a watercourse used for manufacturing or mining purposes is rateable: *Talargoch Lead Mining Company*, app., v. *St. Asaph Union*, resp., L. R. 3 Q. B. 478; 18 L. T. (N. S.) 711.

Of the sea-shore

Projections under the sea are assessable so long as they can be considered as included within the ambit of a parish. Such ambit included the shore to high water-mark, but generaly would not extend beyond low water-mark. As to the space between high and low water-mark, no precise rule had been laid down; but the fact whether that space was within the parish or not, was to be ascertained from usage or reputation, though *primâ facie*, it was not within the parish: *Reg.* v. *Masson*, 22 Jur. 111; 27 L. J. M. C. 100; 8 A. & E. 900; *Ipswich Dock Commissioners* v. *St. Peter, Ipswich*, 7 B. & S. 310. In *Reg.* v. *Gee*, 1 E. & E. 1068, it was held that where the sea shore forms the boundary of a parish, the portion of the shore between the high water-mark of ordinary spring tides and that of the medium tides is within the limits of the parish. As regards navigable rivers which run between two parishes, the middle of the stream is *primâ facie*, the boundary of each parish for the purpose of rating: *McGannon* v. *Sinclair*, 28 L. J. M. C. 237; 33 L. T. (N. S.) 221.

This has been settled by the statute 31 & 32 Vict. c. 122, s. 27, which has enacted that "every accretion from the sea, whether natural or artificial, and the part of the sea-shore to the low watermark, and the bank of

every river to the middle of the stream, which on the 25th December, 1868, was not included within the boundaries of or annexed to and incorporated with any parish, shall, for all civil parochial purposes, be annexed to and incorporated with the parish to which such accretion, part, or bank adjoins, in proportion to the extent of the common boundary." As the sea-shore beyond high watermark is not rateable, works erected for the purpose of rendering an arm of the sea navigable, though maintained by the tolls paid by vessels entering the channel, were held to be not rateable: *Commissioners of Faversham Navigation* v. *Faversham Union*, 31 J. P. 822. So, works to improve an estuary, or the passage of the sea into a dock or harbour, or the entrance to a navigable river, in respect whereof tolls were paid, but not for the private benefit of any one, were not assessable on account of the receipt of such tolls: *Shoreham Harbour Commissioners* v. *Lancing*, 39 L. J. M. C.. 121; L. R. 5 Q. B. 489. The portion of a pier built upon piles below low watermark, and which is therefore beyond the realm of England, is neither an accretion from the sea nor an extra-parochial place within the meaning of the 27th section of 31 & 32 Vict. c. 122. But *quære* if the pier had been built of solid masonry: *Blackford Pier Company* v. *Fylde Union*, 36 L. T. (N. S.) 251; 46 L. J. M. C. 189; 41 J. P. 344.

Derricks attached to the soil under a navigable river by moorings, were held by the Court of Appeal to be rateable to the poor rates, for they exclusively occupy a part of the river, because an exclusive occupation is

the foundation of rating: *Cory* v. *Bristow,* 40 J. P. 308; L. R. 1 C. P. D. Ca. 54; L. J. Q. B. 168; 33 L. T. (N. S.) 624. And this judgment of the Court of Appeal was affirmed by the House of Lords on appeal from the decision of the Court of Appeal. This rule would be the same as to rating a floating dock attached to the soil or bed of a river in like manner as a derrick so attached: *Ib.* W. N. 1877, p. 47; 36 L. T. (N. S.) 594; L. R. 2 H. L. Ca. 262.

Premises to be valued according to their peculiar situation or condition.

Secondly. In estimating the rent at which the property is presumed to be let, reference must be made to the value of the premises in their peculiar situation or condition; so that even an accidental value, whether temporary or permanent, arising from the particular purpose to which the premises may be adapted, or from advantage of position, mode of occupation or otherwise, must be taken into the calculation, if the advantages enable the owner to let them at a higher rent than they would fetch but for these advantages; *Rex* v. *The Proprietors of the Liverpool Exchange,* 1 A. & E. 465. Hence, public-houses, shops, warehouses, situated in a particular spot, may be of more value than other premises in the same locality. Fancy rents, paid for peculiar objects by particular individuals, are not, according to the ruling in *Reg.* v. *Llantrissant,* 20 L. T. 364; 38 L. J. M. C. 93; L. R. 4 Q. B. 334; 10 B. & S. 328, to form the proper basis of value. It is not, however, easy to follow out this ruling to its extreme result.

Various illustrations might be produced, but one of the cases before the courts has been that of a railway.

The company in general are the owners of the railway, having station-houses, engine-houses, warehouses, and various similar properties at the termini of the line, and at intermediate stations. These are their exclusive property, and by means of these premises they can carry on the traffic upon the line with the greatest advantage. The great question which arose in regard to the rating of these railways, was how to ascertain the rental. If only the line itself were considered, and it were asked what would a tenant give to rent the mere line independent of the collateral premises, the sum would be comparatively very small. It was urged in the earliest case in the Court of Queen's Bench, however, that this was the proper criterion. The court decided it was not; that to estimate the value of the premises, it must not be neglected that the party occupying them had those collateral advantages; and consequently, the proper inquiry was, as to the value of the railway having, at its termini and intermediate stations, proper station-houses and warehouses and the means of conducting traffic on it with the greatest prospect of profit: *Reg.* v. *South Western Railway Company*, 1 A. & E. (N. S.) 55; S. C. 2 Lum. P. L. C. 85.

Under the powers of an Act of parliament, a railway was constructed from G. to C. for the common purposes of the Great Western Company, and the Midland Company, each paying half the cost; on the completion, the half of the railway nearest G. became the sole property of the Midland Company, and the half nearest to C. the sole property of the Great Western Company, each company was bound to keep its own half in repair,

and supply the staff of officials, &c., necessary on that half for the traffic of both companies. The railway was constructed for broad and narrow gauge traffic, with three rails on each line; and in practice the Great Western Company used the broad gauge and the Midland Company the narrow, so that of the three rails one was used in common, and one exclusively by each company. The traffic of the Midland Company far exceeded that of the Great Western Company. Upon this state of circumstances, it was held, that there was no rateable occupation by the Midland Company of the Great Western Company's half of the railway, but only an easement, and that the Midland Company were, therefore, not rateable to the poor rate of a parish through which that half of the railway passed; and *semble*, that the Great Western Company were rateable for their half of the railway in respect of the value of the occupation as enhanced by the profits made over it by the Midland: *Midland Railway Company* v. *Badgworth*, 34 L. J. M. C. 25; 11 Jur. (N.S.) 14; S. C. *Reg.* v. *Midland Railway Company*, 11 L. T. (N.S.) 303.

By agreement between a railway company and the C. C. company, the latter, in consideration of the railway company permitting them "to occupy and use a stable for the accommodation of four horses (at or near the C. station of the railway company), undertook and agreed that they would pay the railway company the clear monthly rent or sum of £1 5*s.*,' without any deduction (property tax excepted) and undertook and agreed, so long as they should occupy and use the stable, to observe, perform, and be bound by the bye-laws, rules,

and regulations which should for the time being be issued or prescribed by the railway company for the government and use of their railway stations, premises, and conveniences, and further undertook and agreed to quit and deliver up possession of the stable at the expiration of one month after notice in writing," &c. The stable and the road approaching it were within the station and premises of the railway company. The railway company did not, in point of fact, exercise any control over or use the stables during the currency of the agreement, and none of the bye-laws and regulations mentioned in the agreement were material with regard to occupation of the stable; under these circumstances, the railway company were held liable to be rated to the poor rate in respect of the stable, as they remained in occupation of it notwithstanding the agreement: *London and North Western Railway Company* v. *Buckmaster*, 44 L. J. M. C. 29; L. R. 10 Q. B. 70; 31 L. T. (N. S.) 835; affirmed on appeal, 33 L. T. (N.S.) 329.

The inquiry as to the relative values of trunks and branch lines of railways will be considered hereafter.

At the same time it must be remarked that the assessment upon the stations and buildings themselves may be and generally is distinct and separate from that upon what constitutes the line itself: *South Wales Railway* v. *The Swansea Local Board of Health*, 4 E. & B. 199.

Where a railway company had about a mile and a half of their railway and a station, with a station-master's house, a tank and pumping machine, and a yard for coal and trucks, and were rated upon the value, not only of the station and premises, but also of the per-

manent way; upon appeal against the rate, it was held, that the permanent way could not be said to be attached to or occupied with the station: *Great Eastern Railway Company* v. *Harwich Commissioners*, 27 L. T. (N. S.) 543.

Incidental rights and privileges.

Questions have arisen as to how far the value of property may be increased by rights or privileges not actually arising out of the land or connected with the soil itself, but nevertheless attached to the occupation by mere personal contract. Thus, where the owner of a brewery, being also owner of several public-houses, had bound the lessees of these houses to purchase their beer at the brewery, and then let the latter to a tenant who paid one sum for the brewery and another for the good-will and trade in respect of these houses, it was held, in the case of *Allison* v. *Monk Wearmouth Shore*, 4 E. & B. 13; 23 L. J. M. C. 117; 18 Jur. 1075; 23 L. T. 232; 18 J. P. 438, by two judges against one, that the brewery was properly to be rated at the value enhanced by reason of the privilege. The dissentient judge considered that the covenants of the lessees were personal, transitory with the contractors, and only accidentally connected with the hereditaments occupied, and therefore not to be introduced into the estimate. In a subsequent case, *Sunderland Overseers*, apps., *Sunderland Union*, resps. 18 C. B. (N. S.) 531; 34 L. J. M. C. 124; 13 L. T. (N. S.) 239, a contrary decision was given, though here also the court was not unanimous. It was held by two judges against one, that the value of the brewery was not to be enhanced by reason of the obligation imposed upon

the occupier of tied public-houses to deal with the owner of the brewery. On the other hand, it was held that the rateable value of the public-house was not to be diminished in consequence of this obligation imposed on the occupier.

The case of a soke mill, when by prescription the owner can compel the inhabitants of a district to grind thereat, was admitted to fall within the general rule, so that the mill was to be valued at an increased amount according to the value of this prescriptive right: *Allison* v. *Monk Wearmouth Shore*, *ubi sup.* So, a canteen at a barrack, though let at two rents, one for the mere value of the building, the other for the privilege of using it as a canteen; that is, as a public-house for the barrack, was held as properly assessed upon aggregate sums, as representing the actual value of the premises: *Rex* v. *Bradford*, 4 M. & S. 317.

Detriment from collateral circumstances.

On the other hand, detriment or depreciation may arise from collateral circumstances. A shop in an unfrequented neighbourhood, a private dwelling-house in a poor or unfashionable locality, cultivated lands at a distance from any town or road, are necessarily to be valued at a lower rate than if situated in a different place. The vicinity of nuisances, or other matters calculated to injure the enjoyment of the property, depreciate its actual intrinsic value.

Value of casual profits.

Thirdly. There is a considerable amount of property in which the profits are of a casual and uncertain nature, from which sometimes large profits are derived, sometimes no profits at all. No fixed annual profit

being raised, it is necessary, where the owner is the occupier, to consider the result of a series of years, and to take an average of the profits during those years. The unproductive years must be compared with the abundant years, and an estimate must be formed from the result. It is manifest that such a course would be pursued by a person proposing to hire such property at rack-rent. The value in this case is said to be taken *communibus annis.*

Cemeteries.

Hence, it has been determined that the cemeteries now established by companies in different places are to be valued with reference to an estimate of the amount received in a series of years from the sale of graves, catacombs, and vaults, which are disposed of for perpetuity, and also from fees paid for common interments where no perpetual right is conveyed, and from the herbage on the unbroken ground, allowance being made for the expenses of building the catacombs and vaults, and preparing them for use. If the fees embrace the performance of the services, as is usual, the whole amount appears to be properly the subject of the estimate, a deduction being made for the stipends payable to the clergyman, clerk, and sexton, and for the other expenses incurred in providing for the interment: *Reg.* v. *St. Mary Abbotts, Kensington,* 12 A. & E. 824; S. C. 2 Lum. P. L. C. 59. It has been deemed most in accordance with the law to ascertain the total annual receipts, and make such deductions therefrom as constitute the profits of trade, besides the deductions specifically allowed by the Act here commented upon: *Reg.* v. *St. Giles, Camberwell,* 14 Jur. 519; 14 Q. B. 571.

A cemetery company sold plots of ground for graves, conveying to the purchasers the legal fee simple in trust that the purchasers might use the plots for burying according to the rules of the cemetery; and, subject to that, in trust, for the company. The company were under such circumstances held liable to be rated as occupiers of the cemetery; and the profits got from the sales were to be included in the rateable value of the cemetery: *Reg.* v. *Abney Park Cemetery Company*, 29 L. T. (N. S.) 174; 42 L. J. M. C. 124; L. R. 8 Q. B. 515.

Parish churchyard.

The churchyard of a parish situate therein is not indeed subject to be rated, except where the minister derives a profit from the herbage. But a burial ground of a parish provided in another parish is not exempt from assessment to the poor rate of the latter, though the statute 18 & 19 Vict. c. 128, s. 15, provides that land purchased by a burial board for a burial ground shall not, while used for such purposes, be assessed at a higher value than at the time of its purchase.

Woods and woodlands.

There was a peculiarity in regard to woodlands, arising out of the terms of the statute of Elizabeth. That statute enumerates, among other items of assessable property, saleable underwoods. Hence, it was held that no other woods or woodland than those in which there are saleable underwoods are rateable so far as the trees are concerned. Therefore, trees planted or reared for the purpose of becoming timber, or for some different purpose than that of sale, were not to be assessed. It was immaterial what might be the species or kind of tree. Although

Saleable underwoods.

in itself calculated to become timber, yet if the tree be cultivated as underwood it was ratcable: *Lord Fitzhardinge* v. *Pritchett*, 36 L. J. M. C. 49; 8 B. & S. 216; L. R 2 Q. B. 135. Woods and plantations.

The underwoods, which, being generally raised for the purpose of sale, are cut down at certain intervals, and produce new shoots, fall within the description of "saleable underwoods:" *Rex* v. *Ferrybridge*, 1 B. & C. 375; 2 D. & R. 634; and the general inquiry was as to the mode and object of the cultivation. There was some difficulty in obtaining the exact definition of the term; but this is clear, that trees which are capable of reproduction and of yielding a succession of profits are underwoods; and when the produce is sold, whether regularly or at irregular intervals, the land will be properly described as saleable underwoods: *Reg.* v. *Narberth, North*, 9 A. & E. 815; 1 P. & D. 590.

Where any profit is derived from the land on which the trees grow independently of them, as from the pasture or the grass, it appears to be established that this land is to be valued in respect thereof, whether the trees be exempt or otherwise.

Now by the Rating Act, 1874, 37 & 38 Vict. c. 54, s. 3, the Poor Rate Acts shall extend to the following hereditaments in like manner as if they were mentioned in the recited Act 43 Eliz.; that is to say,—

(1.) To land used for a plantation or a wood or for the growth of saleable underwood, and not subject to any right of common.

Woods and plantations.

The Local Government Board, with reference to this enactment, in their circular letter of Nov. 24, 1874, point out that "the timber and other trees or shrubs themselves are not made rateable but the land on which they are growing, and therefore the statute expressly repeals so much of the statute of Elizabeth as relates to the assessment of the occupier of saleable underwood, and imposes the liability in respect of the land on which it is produced." But in all cases in which land is rated its value must be estimated by reference to what is produced on it.

By sect. 4 of the same Act the gross and rateable value of any land used for a plantation or a wood, or for the growth of saleable underwood, shall be estimated as follows:—

(*a.*) If the land is used only for a plantation or a wood, the value shall be estimated as if the land instead of being a plantation or a wood were let and occupied in its natural and unimproved state:

Where E. was owner and occupier of woodlands which were not used for the growth of saleable underwood, and he had the right of sporting in the woods, and the overseers added a small sum of two shillings per acre to the rateable value of the natural and unimproved land in respect of this sporting right, it was held that this was a proper addition, and was warranted by the Act 37 & 38 Vict. c. 54, s. 4: *Eyton* v. *Mold*, 45 J. P. 54; 43 L. T. (N. S.) 472.

(*b.*) If the land is used for the growth of saleable underwood, the value shall be estimated as if the land were let for that purpose: Woods and plantations.

The Local Government Board, in their letter referring to the alteration in the language of the law whereby the land is assessable instead of the underwoods, say that "the mode of arriving at the value will virtually remain the same, as the value of the land can only be arrived at by estimating the value of its produce."

(*c.*) If the land is used both for a plantation or a wood and for the growth of saleable underwood, the value shall be estimated either as if the land were used only for a plantation or wood, or as if the land were used only for the growth of the saleable underwood growing thereon, as the assessment committee may determine.

Fourthly. In many cases the subject of the occupation is destroyed by the use thereof. It is so in coal mines which are worked, in brickfields, stone quarries, or chalk pits. The newly discovered coprolites fall within this rule, though a contention was raised whether the mode of working them constitututed an occupation of the land, or only the exercise of a license. The court held it to be the former, and consequently, that the works are rateable: *Roads* v. *Trumpington,* 40 L. J. M. C. 35; L. R. 6 Q. B. 56; 23 L. T. (N. S.) 821. The court in another case held that land which is in a shifting occupation, being worked for coprolites, should be rated in respect of the land actually Where the surface is destroyed by the user. Brickfields.

worked during the year at its enhanced or coprolite value: *Reg.* v. *Whaddon*, L. R. 10 Q. B. 230; 39 J. P. 404; 44 L. J. M. C. 73; 32 L. T. (N. S.) 633.

In these cases, an estimate must be made of the proper rent which ought to be paid for the right of so consuming and destroying the soil. Such rent of course ceases to be a proper estimate of the value when the property has been exhausted by the process of mining, brick-making, or lime-burning.

With regard to the assessment of chalk pits to the poor rate, although the convenience and situation of the pits are to be considered in estimating what rent a tenant would reasonably pay, the actual profits derived from working the pits are not material in forming that estimate: see *Reg.* v. *Aylesford Union*, and *Reg.* v. *North Aylesford*, *post*, p. 65.

Royalty rents.

Where the rent is paid in the shape of a royalty, being a payment calculated upon specified quantities of the soil raised or of bricks made, it affords a criterion upon which the annual value of the property may be estimated, and the same may be properly calculated with reference to the year for which the rate is made. Nevertheless, though the royalty, which is fixed by the lease, may form a proper basis of calculation for the rate, still it is open to consideration whether, with reference to all the circumstances of the case, the uncertainty of the market, or otherwise, the royalty so estimated do or do not exceed the rent which would be paid by a tenant who should then take the land; in other words, whether the royalty agreed upon be ade-

quate or excessive with reference to the value in the particular year: *Reg.* v. *Westbrook,* 2 N. S. C. 599; 11 Jur. 515; 10 Q. B. 178. It is the practice in the coal districts for the overseers to ascertain the tons of coal annually raised, and estimate the rateable value by reference to the amount and value of the coal so raised, making all reasonable allowance for the expense of raising the coal. Sometimes the royalty paid to the landlord is adopted, but generally that is not considered of itself a satisfactory basis in respect of coal mines. See Report of the Committee of the House of Commons in 1867, on the Rating of Mines, and the Parliamentary Paper, No. 418, of 1857, which show that in practice great variation exists in the mode of ascertaining the annual value of collieries, and that no general principle is acted upon. Royalty rents.

The well known valuer Mr. T. F. Hedley, of Sunderland and Birmingham, values the buildings, engines, railways, and fixed plant connected with each colliery, by calculating the annual values or mine rents for the minerals on the produce of each colliery during the year preceding his valuation at what he considers reasonable mine rents; the land occupied by the colliery and the shafts and its buildings and machinery connected therewith he values in the same manner as other surface lands, buildings, and machinery. See Hedley, on the principles of Rating Mines and Manufactures, page 51.

Fifthly. Where premises are only occupied for a portion of a year, if the peculiar nature of the premises prescribe such limited occupation, still they are to be estimated at an annual value, with reference to such Partial occupation of premises.

limited occupation. A familiar example is a theatre, where the occupation is only during a season, but the rate is to be imposed as upon a profitable occupation during the whole of the year. Lodging-houses at watering-places are only occupied during the season; nevertheless, they are valued at an average of the whole year's profit.

An engine-house, containing a pumping-engine, which was only occasionally used, was nevertheless held to be rateable: *Birmingham Navigation Company,* apps., *Birmingham Overseers,* resps., 19 L. T. 311. The use of rifle butts on a common during certain days in the year has been recently held not to render them liable to be rated, but this was on the ground that there was no actual occupation of the land by the rifle association: *Mildmay* v. *Churchwardens and Overseers of Wimbledon,* 41 L. J. M. C. 133; 27 L. T. (N. S.) 265.

Rating non-productive land

In the case of *Heaton,* app., *Harborne,* resp., referred to in Sir Rupert Kettles's pamphlet on the rating of non-productive land, upon the judgment of Lord CAMPBELL, C. J., it was held that the owner is rateable to the poor for land producing something which may be made beneficial, but from which land nothing whatever is in fact taken, which is unlet, and of which he has only such constructive occupation as arises by law from the possession of real estate. The facts of the case were stated in a special case for the opinion of the court as follows:—

"The appellant is the owner of a piece of land in the parish of Harborne, containing a quantity about seven-eighths of an acre, for which he is rated to the poor.

"The land in question was purchased by the appellant in the year 1850, and formed portion of a farm cut into lots and sold as eligible for building land. The land purchased by the appellant was up to the period of the sale partly in pasture and partly in tillage.

"A portion of the land was in the first year planted by the appellant with potatoes; but has not since the first year been cultivated, nor has the appellant, or any of his servants, or any other person by his authority been upon the said piece of land for four years preceding the making of the rate—the other portion of the land which was in pasture remains in pasture, and grass is now growing upon it. The appellant has never let the land in question, and has never made any profit of it, having purchased it for building purposes. The land is capable of being let at a rental in its present condition for cultivation.

"The amount of rate is not in dispute, but only the rateability of the land in question."

Parts of premises unoccupied.

A practical difficulty sometimes arises in respect of premises capable of distinct occupations, of which portions are from time to time unoccupied. Usually, there is one principal occupier of the entire premises who underlets the portions. In strictness, he is only liable in respect of so much as is actually occupied at the time of the rate. Where the rate is laid upon the whole in a certain sum, if the value of the unoccupied part be included, the occupier's only remedy is by appeal: *Reg.* v. *JJ. of Warwickshire*, 2 L. T. 233; 29

L. J. M. C. 176; *Bavin* v. *Hutchinson*, 6 L. T. (N. S.) 504; 31 L. J. M. C. 228. If the rate be laid separately upon the distinct part of the premises, the rate for the unoccupied part is in itself simply void. Instances of this occur in the factories in the manufacturing districts, and in chambers and lodging tenements in the metropolis and large towns.

Again, properties in one occupation may be rated at their separate value to a tenant although that value is enhanced by the proximity of the premises to other premises in the same occupation which are a losing concern: *Mersey Docks and Harbour Board* v. *Birkenhead*, 29 L. T. (N. S.) 27; 42 L. J. M. C. 141; L. R. 8 Q. B. 745.

Rating of owners in the place of the occupiers.

The statute 59 Geo. 3, c. 12, s. 19, enabled the vestry of any parish to resolve that the owners of apartments in houses let on rents between 6*l.* and 20*l.* should be rated instead of the occupiers.

Many local Acts existed in parishes to the like effect. But these and the general statute 13 & 14 Vict. c. 99, by which the owners of small tenements were assessable in the place of the occupiers, have been repealed by the 32 & 33 Vict. c. 41, s. 6.

The 30 & 31 Vict. c. 102, in sect. 7, enacted in respect of a parish situated either wholly or partly within a parliamentary borough, that after the passing of that Act no owner of a dwelling-house or other tenement situate therein should be rated to the poor rate, except as thereinafter mentioned, which exception, referring

to houses let out in apartments or lodgings not separately rated, was noticed above, p. 42. But this clause, though not repealed, is practically set aside by the provisions contained in the 32 & 33 Vict. c. 41.

The new provisions as to the rating of owners in this last Act are as follows:—

The 3rd section provides for the payment of the rates by the owners instead of the occupiers, in the following cases:—1. Where the rateable value of any hereditament does not exceed 20*l.* in the metropolis, 13*l.* in the borough of Liverpool, or 10*l.* in the city of Manchester or borough of Birmingham, or 8*l.* if situate elsewhere.

The 4th section then enacts as follows:—

The vestry of any parish may from time to time order that the owners of all rateable hereditaments to which sect. 3 of this Act extends, situate within such parish, shall be rated to the poor rate in respect of such rateable hereditaments instead of the occupiers on all rates made after the date of such order, and thereupon and so long as such order shall be in force the following enactments shall have effect,—

"1. The overseers shall rate the owners instead of the occupiers, and shall allow to them an abatement or deduction of 15 per cent. from the amount of the rate.

"2. If the owner of one or more such rateable hereditaments shall give notice to the overseers in writing, that he is willing to be rated for any term not being less than one year, in respect of all such rateable here-

ditaments of which he is owner, whether the same be occupied or not, the overseers shall rate such owner accordingly, and allow to him a further abatement or deduction not exceeding 15 per cent. from the amount of the rate during the time he is so rated. If the notice be not given, any further allowance to the owner than the 15 per cent. would be illegal: *Bennett* v. *Atkins*, L. R. 4 C. P. 80; 40 L. T. (N.S.) 66; 43 J. P. 191.

"3. The vestry may rescind the order.

"Provided that this clause shall not be applicable to any rateable hereditaments in which a dwelling-house shall not be included."

Value in particular years.

Returning to the principles of rating, it is to be remarked, that it is not a correct principle to estimate land upon its actual value in any particular year, when the profit may from some peculiarity or accident be increased or diminished. But its value should be ascertained by reference to a series of years where the occupation takes place under the ordinary circumstances applicable to the particular species of property. The valuation is made with a present and prospective reference, so that the inquiry is what rent would the tenant then give. He would calculate upon the then state of things, and could not be influenced by circumstances which might occur pending his occupancy, but could not be foreseen. The statute does not propose an estimate of a rent for a year, but of the rent at which the tenement would let from year to year. Though no definite term is specified, perhaps, as in the case of large mansions, a term of seven years may be taken as a

reasonable term upon which to compute the rent. A farmer is not allowed to escape the rate because some of his fields lie fallow. At the same time it must be remembered that the value is to be taken at the time of the assessment, and not with reference to some previous rate: *Reg.* v. *The London, Brighton, and South Coast Railway Company*, 4 N. S. C. 511; 15 Q. B. 313; or to the cost price: *North Staffordshire Railway Company* v. *Rushton Spencer*, 7 Jur. (N. S.) 363; 30 L. J. M. C. 68. So, if circumstances arise which diminish the extent or nature of the occupation, there must be due attention paid to those circumstances: as if part of the premises be burnt down, or if a factory cease to be worked owing to any contingency of trade: *Reg.* v. *Castleton*, 10 L. T. (N. S.) 606: *Staley* v. *Castleton*, 33 L. J. M. C. 178; 5 B. & S. 505.

Occupation profitable or otherwise.

Sixthly. It is not necessary to consider whether the occupation of the premises be profitable to the occupant or not. A farmer or trader must pay the rate upon the land or the shop, although the farm or the shop may be occupied at a loss. So, a coal mine may be worked at loss to the miner, yet a profit may result to the owner of the mine. There must be an occupation beneficial in its nature, that is, the occupation of a subject-matter, producing a valuable return, though not necessarily valuable in any given year to the occupier on a balance-sheet of profit and loss: *Reg.* v. *Taunton Market Trustees*, 1 N. S. C. 577; 6 Q. B. 787.

But if no profit can be obtained from the occupation of the land by any one, the same is not assessable. Thus, a corporation owned a common, but the only profit was

obtained by certain persons who had the right of common thereon; the corporation were held to be not rateable; and the commoners were also exempt, having only an incorporeal right, which was not the subject of assessment: *Corporation of Lincoln,* apps., *Overseers of Holmes Common,* resps., 36 L. J. M. C. 73; 8 B. & S. 344. Again, a public sewer which carried away the sewage of a large district into a river was not rateable, as it could produce no profit: *Reg.* v. *Metropolitan Board of Works,* L. R. 4 Q. B. 15.

Improvements to be valued.

In valuing the premises, as already noticed, the rent which may be paid is not to be held as conclusive of the value, and consequently all improvements and additions made to them are to be taken into account, if the value be higher, although the amount of the rent paid to the landlord is not increased.

But goodwill or profits of trade not to be taken into the estimate.

Seventhly. Care, however, must be taken to avoid introducing goodwill or the power of influencing customers, or the profits of trade, into the estimate of the value of the property. The former is of too vague and personal a character to be the subject of estimate; and the latter result from the capital expended in trade, not from the premises themselves, although, as the amount of the profits may be affected by the peculiar position of the premises, the capacity of producing such profits is properly estimated in the calculation of the value of the particular premises in their special locality. Here, also, should be recalled the remarks as to the obligations which the owners of breweries exact from the occupiers of public-houses, above discussed.

A cement manufacturer occupied a chalk-pit near his works, and used the chalk which he raised from the pit in the manufacture of his cement, thus deriving an extra profit from the pit beyond that obtainable by the occupiers of other pits in the neighbourhood. It was held that the rateable value of the pit was not enhanced by the profitable use, though the value might be increased by the convenience and situation of the pit to the cement works: *Reg.* v. *Aylesford Union*, 26 L. T. (N. S.) 618; S. C. *Reg.* v. *North Aylesford Union*, 37 J. P. 148.

Furniture and movable fixtures, when to be estimated and when not.

So, also, the value of furniture or moveable fixtures is not to be estimated in the value of the premises, unless that value be increased by the peculiar nature of the furniture; thus, a dwelling-house, is not to be valued with reference to that furniture; but a factory fitted up with fixed machines, a foundry having its furnaces and forges attached, a shop having counters and shelves, a billiard-room having billiard tables fixed in it, nursery-grounds having conservatories, hot-houses and green-houses erected thereon, should be estimated at a higher value than similar premises where those appendages are wanting, because they are the proper fittings of the premises, without which the occupation would be comparatively of little value.

Fixed machinery.

Equally clear is the rule where fixed machinery, such as steam-engines, vats, presses, salt-pans, cranes, gasometers, retorts, purifiers, boilers, and the like is combined with the real property, and, though in some respects capable of severance, is fixed thereto, it increases

the value of the occupied property. It is therefore necessary that the value of such machinery and fixtures should be taken into the calculation in making the assessment: *Rex* v. *Birmingham and Staffordshire Gas Light Company*, 6 A. & E. 634; *Reg.* v. *Guest*, 7 A. & E. 951; *Reg.* v. *Haslam*, 15 Jur. 972; 4 N. S. C. 720; 17 Q. B. 587; *North Staffordshire Railway Company* v. *Rushton Spencer*, *ubi sup.*; *Reg.* v. *Lee*, 35 L. J. M. C. 105; 7 B. & S. 188. In a distillery there were tanks so large as to form the entire roof of buildings, refrigerators, mash tuns, pumps, wash-backs, and reservoirs. These articles, which were all heavy, and in some cases screwed down to steady them, constituted, with fixture, one continuous process necessary for distilling; but all were complete and separate articles, bought and sold again. It was held, that as the articles were merely steadied by their own weight, or with the help of screws, and could be detached and sold separately, they were not fixtures, and not included as part of the rateable value of the building for the purposes of the poor rate: *Chidley* v. *West Ham*, 38 J. P. 773; 39 J. P. 310. But in a later case the appellant, the owner and occupier of extensive yards and buildings for constructing iron and wooden ships, and for manufacturing machinery for such ships, was rated at an enhanced amount in respect of certain machinery and plant placed on the premises and necessarily used for the purposes of his business; amongst them were boilers set in masonry, with pipes passing through the buildings and underground; engines standing on iron bed-plates bolted to stone foundations; shafts fastened to the walls; machines separate from each

other upon wooden sleepers bolted to concrete foundations, but removable by unfastening the bolts; and other similar machines resting on prepared beds without fastenings. On a case stated by consent under 12 & 13 Vict. c. 45, s. 11, it was held by the Queen's Bench Division, that though some of the machinery and plant was capable of being removed without injury to itself or to the freehold, yet being essentially necessary and permanently attached to the appellant's business, it was all rightly taken into consideration in estimating the rateable value of the premises: *Laing* v. *Bishopwearmouth*, 27 L. T. (N. S.) 781; L. R. 3 Q. B. D. 299; 47 L. J. M. C. 41; 26 W. R. 351; 42 J. P. 68.

The rule generally adopted in cases of machinery appears to be this, to include in the value of the premises all that constitutes the moving power, and all fixed receptacles and reservoirs; but to stop short at what may be considered to be the tools, engines, instruments, or other matters worked by the moving power. The rails of a railway company are fixtures for the purpose of assessment: *Great Western Railway Company*, apps., *Melksham Union*, resps., 34 J. P. 103. On the other hand, a steam-tug employed by a dock company, whose revenues arose from the vessels brought into their docks, was held to be not rateable: *Reg.* v. *Southampton Dock Company*, 4 N. S. C. 460; 14 Q. B. 587; see also *Reg.* v. *Tyne Improvement Commissioners*, 6 L. T. (N. S.) 489. And so also a floating-dock belonging to a ship-builder, whose building yard was on the bank of a river in which the dock floated, was held to be exempt: *Reg.* v *Morrison*, 22 L. J. (N. S.) M. C. 15; 1 E. & B.

153; 17 Jur. 485; and a floating derrick hulk attached to the soil under a navigable river by moorings is rateable, for it exclusively occupies a part of the river and an exclusive occupation is the foundation of rating: *Cory* v. *Bristow*, 41 L. J. M. C. 143; L. R. 2 H. L. Ca. 262; 36 L. T. (N. S.) 594. A wooden pier, however, floating on a river, but permanently attached to a landing-place on the bank was held to be rateable: *Reg.* v. *Leith*, 1 E. & B. 121, 136; 11 Jur. 522, 525. So, where it was fixed at one end to the shore of a navigable river, but floated at the other end, and rose and fell with the tide, it was held rateable as land: *Reg.* v. *Forrest*, 27 L. J. (N. S.) M. C. 96; 22 Jur. 480.

The meters of gas affixed to the houses of the consumers, though found by the company, were held not to be included in the assessable value of the gas works: *Reg.* v. *Lee*, *ubi supra*, as they were only the means of measuring the gas supplied to the customers.

Certain silk machines in a factory fixed to the floor for the purpose of being kept steady, but otherwise moveable, were held not to be taken into the calculation in valuing the factory: *Reg.* v. *Halstead*, 32 J. P. 118; but in a later case it has been held that though some of the machinery and plant in a ship building yard was capable of being removed without injury to itself or the freehold, yet being partially necessary and permanently attached to the premises, it was rightly taken into consideration in estimating the rateable value of the premises: *Laing* v. *Bishopwearmouth*, 42 J. P. 68; L. R. 3 Q. B. D. 299; 37 L. T. (N. S.) 781; 47 L. J. M. C. 41.

Eighthly. Again, extrinsic profits, not themselves rateable, cannot be estimated in the valuation of property to which such profits are not appurtenant; thus, light-house tolls, being for the most part privileges and not compensation paid for the use of the light-house or the land on which it stands, are not rateable, and consequently must not be valued in the estimate of the light-house when the latter is rateable: *Rex* v. *Tynemouth*, 12 East. 46. And tolls for the use of a ferry across a navigable river must not be taken into the calculation in estimating the value of the landing-place, though the landing-place is to be valued with a consideration of its being available for earning the tolls: *Reg.* v. *N. & S. Shields Ferry Company*, 22 L. J. (N. S.) M. C. 9; 1 E. & B. 140. Market tolls, not being paid for the use or occupation of any land, but for the simple license of selling goods in a market, are not rateable: *Rex.* v. *Bell*, 5 M. & S. 221; *Roberts* v. *Aylesbury*, 1 E. & B. 423; *Mayor of London*, app., *Overseers of St Sepulchre*, resps., L. R. 7 Q. B. 333. Tolls authorized to be taken by an Act of parliament in respect of cattle brought into a market for sale, which tolls become due as soon as the cattle are brought into the market-place, and before the cattle are put into a pen or tied up, are mere market tolls, and not in the nature of stallage or tolls taken in respect of the use of the soil; and in assessing the lessee of the market and tolls to the poor rate, in respect of his occupation of the market-place, such tolls cannot be taken into account as enhancing the value of the occupation: *Reg.* v. *Casswell*, L. R. 7 Q. B. 328; 41 L. J. M. C. 108; 26 L. T. (N. S.) 574. In 1671 a crown charter gave Lord S., the

Extrinsic profits not appurtenant.

Tolls and rights.

lord of the manor, and his heirs, the right to hold a market in A. every alternate Tuesday, together with tolls. From 1784 to 1856 a stock market was held, certain payments being made to S., and also to some inhabitants, for the use of pens supplied. Certain land occupied by the market was afterwards obtained from S., with assignment of all tolls and profits, and this land was fenced in when not used for market purposes. Some pens were used by particular owners and salesmen: the rest were free for any animals. For all animals toll was paid for admittance to the market. In this case it was held, that the occupier was properly rated for the occupation of the soil, as the tolls were apparently incident to that occupation, and were not mere market tolls severed from such occupation: *Percy* v. *Ashford*, 40 J. P. 502; 34 L. T. (N. S.) 579. By a local Act a market company were incorporated and authorized to regulate the market places belonging to the corporation of Brecon, and to receive all tolls payable therefrom, which were thereby vested in them. They were, however, by another section, to pay to the corporation £210 a year, to be charged on the scheduled tolls, markets, and market-places by the Act vested in the company, and to be a first charge on those tolls next after the expenses of receiving them. This annual sum was to be devoted by the corporation to the payment of incumbrances incurred by the building of the old market-place. The company under the authority of the Act constructed new market-places on land vested in them, and collected tolls for the old and new markets. Upon a case stated, it was held, that the company were not entitled to a deduction of this £210 from the net

annual value of their tolls in their assessment to the poor rate: *Brecon Market Company* v. *St. Mary's, Brecon,* 36 L. T. (N. S.) 109; 41 J. P. 325.

Tolls are not rateable in themselves, but a toll-house is increasedly rateable by reason of the facilities which it affords for the collection of the tolls: *Williams* v. *Bedminster Union Assessment Committee,* 34 L. T. (N. S.) 795.

In *Reg.* v. *Caswell, ante,* p. 69, it was sought to enhance the value of the market-house by a consideration of the market tolls leviable on goods brought into it for sale, but this attempt failed. These tolls are considered to be payable, not in respect of the occupation of the land, but in respect of the franchise of the market. Also quayage tolls paid to a corporation by the masters of vessels landing goods at a port in which the corporation, as well as other persons, owned quays, and which tolls were paid indiscriminately in respect of the landing at all the quays, were held to be exempt: *Reg.* v. *Lewis,* 26 L. T. 58; 19 Jur. 1108; 5 E. & B. 508. A right to moor barges to a post in a navigable river on payment of a rent is only an easement, and is not rateable: *Watkins,* app., *Gravesend and Milton Union,* resps., 37 L. J. M. C. 88; L. R. 3 Q. B. 350; *Grant,* app., *Oxford L. B.* resps., L. R. 4 Q. B. 9. Whether in these cases the person receiving the rent might be rateable, was not discussed, but may require attention.

A right of common in gross, which is held as a personal right, and is not appurtenant to any land, is not

rateable: *Reg.* v. *The Corporation of Alnwick*, 9 A. & E. 444. So, also, mere manorial rights, such as the right to appoint gamekeepers or other officers, to hold courts, or to receive heriots, are not subject to the rate. Quit rents, indeed, are included in the value of the land to the occupier, from which they are not deducted.

And upon this principle a railway was held to be not assessable in respect of a guaranteed dividend payable by the directors of another railway company, the guaranteed fund being independent of the user or occupation of the railway: *Newmarket Railway Company* v. *St. Andrew the Less, Cambridge*, 23 L. J. M. C. 76; 3 E. & B. 94.

Such as are appurtenant.

On the other hand, profits, though of an incorporeal nature, which are appurtenant to or result from the possession of land and accrue in the parish, are to be taken into the account in valuing that land, as rights of way, and rights of common, appendant or appurtenant, or tolls paid for the use of the land, such as stallage and piccage tolls, which are paid for erections or stands in markets, or tolls for traverse over bridges or over land: *Reg.* v. *M. of Salisbury*, 8 A. & E. 716. So, anchorage and beaconage dues paid in a harbour in respect of the ownership of the soil of the harbour or its boundary have been held to be rateable: *Reg.* v. *E. of Durham*, 28 L. J. M. C. 232; 5 Jur. 130. Wharfage dues paid for the use of the wharves, are to be included in the value of the wharves: *Reg.* v. *Dowlais Iron Company*, 10 B. & S. 208; *Reg.* v. *Rhymney Railway Company*, *Ib.* 198. And if the land be not open to

valuation, these tolls must themselves be estimated according to the principles herein explained. Some manorial rights, also, which occasionally increase the value of the manor-house and land to which they are attached, are when they do so, to be introduced into the estimate of the value of the latter.

The rents paid for water power supplied to mills from waterworks, were held to be properly included in the assessable value of those waterworks: *Greenock Parochial Treasurer* v. *The Shaws Waterworks Company*, 9 Jur. 1207.

A local board are rateable to the poor rate only in respect of the profit they actually derive from the occupation of their waterworks and not in respect of the profit which a company, occupying the works solely for the purpose of profit, might make: *Worcester, Mayor, &c., of*, v. *Droitwich Assessment Committee*, L. R. 2 Exch. D. 49; 43 L. J. M. C. 81; 36 L. T. (N. S.) 186; 41 J. P. 355; affirming the decision in the court below, 34 L. T. (N. S.) 288; 40 J. P. 421. And where a statute prohibited a corporation from making any profit by the supply of water to a district, the court held that they were not to be rated as a trading company making a profit, but the actual receipts were the measure of the gross estimated rental: *Liverpool, Mayor, &c., of*, v. *Wavertree*, 39 J. P. 101; L. R. 2 Exch. D. 55.

Rights of sporting, fishing, and shooting.

Where a mere right of sporting over any piece of land, or of fishing in any stream or pool of water, is enjoyed by an individual, he was not assessable in respect thereof: *Hilton and Wakerfield* v. *Bowes*,

L. R. 1 Q B. 359; but the occupier of the soil or stream who granted the right, and derived a profit from the grant, was to be assessed in respect thereof by an increase in the value of the land. And the owner of a several right of fishery, if it carried with it some interest in land, was liable to be assessed in respect thereof: *Rex* v. *Ellis*, 1 M. & S. 652.

Now, by the Rating Act, 1874 (37 & 38 Vict. c. 54), s. 6 (1): Where any right of fowling, or of shooting, or of taking or killing game or rabbits, or of fishing (hereinafter referred to as a right of sporting), is severed from the occupation of the land and is not let, and the owner of such right receives rent for the land, the said right shall not be separately valued or rated, but the gross and rateable value of the land shall be estimated as if the said right were not severed; and in such case if the rateable value is increased by reason of its being so estimated, but not otherwise, the occupier of the land may, unless he has specifically contracted to pay such rate in the event of an increase, deduct from his rent such portion of any poor or other local rate as is paid by him in respect of such increase; and every assessment committeee, on the application of the occupier, shall certify in the valuation list or otherwise the fact and amount of such increase.

Game, according to 9 Geo. 4, c. 69, is defined as including "hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards."

Woodcock, snipe, quail, landrail, and rabbits have been made the subjects of the laws relating to poaching, but

are not properly game, and it will be observed that rabbits are expressly mentioned as distinct from game. By the Ground Game Act, 1880 (43 & 44 Vict. c. 47), s. 8, however, for the purposes of that Act, "ground game" means hares and rabbits; and if the right conferred by that Act upon the occupier to kill ground game on his land enhances the letting value of the land, that fact should be taken into consideration in determining the gross value for the purposes of assessment.

With reference to the provision that the Assessment Committee shall certify in the valuation list the fact and amount of the increase in the rateable value, the Local GovernmentBoard, in their letter, observe thus: —"It would appear, therefore, that in dealing with the right as an element of value it ought not to be estimated upon any such consideration as that of the rent which a third person might be found to give for it, but according to its worth to the occupier of the land upon the supposition that the right is not severed; or, in other words, that he himself is entitled to exercise the right without the power of making a profit by letting it." Of course it may be a profit to himself in his own enjoyment.

In estimating the annual value of sporting rights, for the purposes of assessment to the poor rate, the assessment committee should apply the principles of the statute 6 & 7 Will. 4, c. 96, s. 1, and 25 & 26 Vict. c. 103, s. 15, and not merely consider the capacity, in their estimation, of the property for holding game. They should consider what a hypothetical tenant would

give to take the right of sporting on a lease from year to year, and make therefrom the appropriate deductions authorized by the statutes. The estimate of the value must be reasonable in amount, and should have reference to the extent of the game usually on the land and under ordinary circumstances, and not the quantity that closely preserved land could hold. If there is good cover for game on the land that fact would be an element in estimating the rent which a tenant would give.

By 37 & 38 Vict. c. 54, s. 6 (2), where any right of sporting, when severed from the occupation of the land, is let, either the owner or the lessee thereof, according as the persons making the rate determine, may be rated as the occupier thereof.

Where the owner of an estate demised the right of sporting over the estate, retaining the land in her own occupation, it was held that the right of sporting was severed from the occupation of the land within the meaning of 37 & 38 Vict. c. 54, s. 6, sub-sect. 2 : *Kenrick* v. *Guilsfield*, 44 J. P. 202; 41 L. T. (N. S.) 624.

(3.) Subject to the foregoing provisions of this section the owner of any right of sporting, when severed from the occupation of the land, may be rated as the occupier thereof.

(4.) For the purposes of this section, the person who, if the right of sporting is not let, is entitled to exercise the right, or who, if the right is let, is entitled to receive the rent for the same, shall be deemed to be the owner of the right.

Dues or tolls paid to dock companies by vessels which enter or use the docks are the subject of the rate, that is to say, they are to be taken into the calculation in rating the docks. But tolls or dues paid to such companies in respect of vessels which do not enter or use the docks, are not to be so calculated: *Reg.* v. *Hull Dock Company*, 1 N. S. C. 621; 21 L. J. M. C. 153; 16 Jur. 503. So, also, as noticed above, quayage tolls in an open port are not assessable. The general liability is, however, often qualified by the terms of the local Acts applicable to such properties if they be not of late date.

Dock dues and tolls.

Ninthly. Where there are buildings and land which are the subject of occupation jointly, it is not correct to omit either of them in the valuation; but the common practice is to value the whole jointly, so as to bring into the estimate of the principle the value of that which is the adjunct. Thus, the farmhouse and barns or other buildings are estimated in the valuation of the farm; so the parsonage and glebe are valued as one tenement when occupied together by the incumbent; and the land which adjoins and is occupied with the factory, is properly estimated in the valuation of the factor. This practice was thought to be unobjectionable, provided due attention was given to the value of the whole of the property; but in rural sanitary districts it leads to inconvenience in making special rates under sect. 230 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), if the rateable value of houses and buildings is not separately distinguished from that of the land, &c.

Valuation of buildings *and* land, where the one or the other is only an adjunct for convenience.

If the buildings on the premises be beyond what is required for the purposes of the farm or factory, or other principal subject of occupation, those buildings will properly form a distinct subject of valuation. Thus, if there be a mansion-house or an inn on the farm, or if there be a residence for a partner or foreman at the factory (*Reg.* v. *Wall Lynn*, 8 A. & E. 379), it would be improper to include these in the general valuation of the farm or factory.

Where premises are occupied necessarily by the party rated, if his occupation does not entitle him to exemption, they are to be valued as though occupied by any other person. A parson is thus assessed for his parsonage (which is to be valued as any other similarly built and similarly situated dwelling-house: *In re Bennett*, 11 L. T. (N. S.) 24); and so is the manager of a factory, the superintendent of a railway, or the resident officers of an hospital, for their respective residences if they do not occupy as servants merely.

Occupation by servants.

Buildings occupied by servants, such as lodges, coach-houses, or stables, which are clearly used as subsidiary to the main or principal premises, are properly included in the valuation of the latter, to which they are appurtenant; as are also portions of land occupied as gardens, or ornamental grounds, or lakes, ponds, or canals in such grounds. So, also, certain persons holding offices under the Crown who were required for the due discharge of their public duties to occupy premises the property of the Crown appropriated to such offices were held to be exempt: *Reg.* v. *Stewart*, 22 J. P. 480; 27 L. J. M. C. 81; 8 E. & B. 360.

It may be here remarked, that though certain properties may be in themselves exempt from assessment, either from want of profitable user or from other circumstances, there may be an occupation of adjoining land or premises which may be assessable. Thus, where a public sewer was held not to be rateable, the court held that the land on which wharves, engine-houses, and pumping machines were erected for the purposes of such sewers was rateable: *Reg.* v. *Metropolitan Board of Works*, 38 L. J. M. C. 24; L. R. 4 Q. B. 15; 9 B. & S. 739; *Metropolitan Board of Works* v. *West Ham*, L. R. 6 Q. B. 193; 40 L. J. M. C. 30. Rateability of land occupied with non-rateable land.

Tenthly. Some extraordinary properties of a valuable character may exist in the soil, such as salt or sulphur springs, mineral waters or spas. These are to be taken into consideration in estimating the assessable value of the land: *Reg.* v. *Miller*, Cowp. 619. Salt springs and spas.

It may, however, be well to notice the peculiarity in respect of the rating of *mines*. These are, certainly, a species of real property occupied by the persons working them, and should have been rated in like manner as all other property of that kind. But the statute of Elizabeth enumerated *coal mines* as a distinct subject of assessment, and hence for a very long period it had been held that all other species of *mines* were exempt from the rate, and this ruling has been upheld by the House of Lords in the case of *Morgan* v. *Crawshay*, L. R. 5 H. L. 304. This rule is, however, confined to the persons working the mine, for if in any mine the owner reserve to himself, as a rent, any portion of the unmanufactured ore when raised from the earth, he is rated in reference to that portion as an occupier of Mines.

Mines. the mine, and is subject to the rate. The value of that portion is to be ascertained, and, as in general it is a rent paid to the owner without any cost or expense to him, it does not appear to be open to any deduction, other than that of the tenants' rates and taxes. If, instead of the reservation of the ore, the owner receives a commuted sum in money by way of royalty, this is not rateable, and the whole is exempt: *Crease* v. *Sawle*, 2 A. & E. (N. S.) 862; *Reg.* v. *Todd*, 12 A. & E. 816. And as metalliferous mines were not rateable, it was held that an engine used in such a mine for raising the ore to the surface was not to be rated: *Rex.* v. *Bilston*, 5 B. & C. 851. This decision is now considered as supported, upon the ground that the engine formed in itself part of the mine. But it has been held by the Court of Queen's Bench, that the surface land which is occupied with the buildings, machinery, plant, tramways, and other workshops connected therewith, and used for the purpose of working the mines, is not exempt from being rated: *Guest* v. *East Dean*, L. R. 7 Q. B. 334. This case also supplies the principle for the assessment, which assumes the mine and surface to belong to different owners, and then enquires what rent the owner of the mine would give to the owner of the surface for the surface land with the above described subjects upon it to be used in the working of the mine. The surface lands, buildings, and engines connected with mines should be rated in the same manner and subject to the same deductions as other surface lands, buildings, and the engines, and the minerals and shafts or adits on three-fourths of the amount of the rents at which the same might reasonably be expected to let one year with another. Such

rents to be estimated on the quantity of minerals worked during the year preceding making the valuation lists. On this principle, when once the value of the surface lands, buildings, and machinery is settled, and the tonnage or acreage rents are fixed for the different minerals, the rating of the mines would be "self adjusting," and vary according to the produce of the mines and the quantity of minerals worked. Mines.

An artificial watercourse made in land adjoining a mine for the purpose of that mine, is rateable as land enhanced by the watercourse, which itself was valued as serving the mine: *Talaryoch Company (Limited)* v. *St. Asaph Union*, 39 L. J. M. C. 149; 9 B. & S. 210.

Now by the Rating Act, 1874, 37 & 38 Vict. c. 54, s. 3, the Poor Rate Acts shall extend to mines of any kind not mentioned in the 43 Eliz. c. 2, s. 1; and where a tin, lead, or copper mine is occupied under a lease or leases granted without fine on a reservation wholly or partly of dues or rent, the gross value of the mine shall be taken to be the annual amount of the whole of the dues payable in respect thereof during the year ending on the 31st day of December preceding the date at which the valuation list is made, in addition to the annual amount of any fixed rent reserved for the same which may not be paid or satisfied by such dues: 37 & 38 Vict. c. 54, s. 7.

The rateable annual value of such mine shall be the same as the gross value thereof, except that where the person receiving the dues or rent is liable for repairs, insurance, or other expenses necessary to maintain the mine in a state to command the annual amount of dues or rent, the average annual cost of the repairs, insu-

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rance, and other expenses for which he is so liable shall be deducted from the gross value for the purpose of calculating the rateable value: 37 & 38 Vict. c. 54, s. 7.

In the following cases, namely,—

1. Where the mine is occupied under a lease granted wholly or partly on a fine; and

2. Where any such mine is occupied and worked by the owner; and

3. In the case of any other such mine which is not excepted from the provisions of this Act and to which the foregoing provisions of this section do not apply, the gross and rateable annual value of the mine shall be taken to be the annual amount of the dues, or dues and rent, at which the mine might be reasonably expected to let without fine on a lease of the ordinary duration, according to the usage of the country, if the tenant undertook to pay all tenants' rates and taxes and tithe rent-charge, and also the repairs, insurance, and other expenses necessary to maintain the mine in a state to command such annual amount of dues or dues and rent. [*Ibid.*]

The purser, secretary, and chief managing agent for the time being of any tin, lead, or copper mine, or any of them, may, if the overseers or other rating authority think fit, be rated as the occupier thereof. [*Ibid.*]

In this section,—

The term "mine," when a mine is occupied under a lease, includes the underground workings and the engines, machinery, workshops, tramways, and other plant, buildings (not being dwelling-houses), and works and surface of land occupied in connexion with and for

the purposes of the mine, and situate within the boundaries of the land comprised in the lease or leases under which the dues or dues and rent are payable or reserved: 37 & 38 Vict. c. 54, s. 7. Mines.

The term "dues" means dues, royalty, or toll, either in money or partly in money and partly in kind; and the "amount of dues" which are reserved in kind means the value of such dues: [*Ibid.*]

The term "lease" means lease or sett, or license to work, or agreement for a lease or sett, or licensed to work: [*Ibid.*]

The term "fine" means fine, premium, or fore-gift, or other payment or consideration in the nature thereof. [*Ibid.*]

If these dues are wholly rendered in kind the mine is not within this section. As regards other mines, such as iron, coal, or salt mines, no statutory provision exists for the mode of valuation. [*Ibid.*]

By sect. 13 nothing in the Act shall apply to a mine of which the royalty or dues are for the time being wholly reserved in kind, or to the owner or occupier thereof.

The Van Mining Company occupied and worked a lead mine under three leases; by one a royalty of one-fourteenth of the minerals obtained under it when ready for smelting, and merchantable on the banks of the works, were reserved to the lessor, or, at his option in lieu thereof, the full value in money; by the second and third, the lessor, who was a different person from the lessor of the first lease, had a reservation for the time

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being only in money. The company were rated for the machinery and buildings occupied for the purposes of the mine, and the lessor of the first lease for the mine and the royalty or dues reserved in kind; and upon appeal it was held that this was a case within the exemption of the Rating Act, 1874 (37 & 38 Vict. c. 54), s. 13; that the previous rating clauses in that Act did not apply to it, and that therefore the rate was properly made: *Van Mining Co.* v. *Llanidloes,* 34 L. T. (N.S.) 692; L. R. 1 Exch. D. (D. C. A.) 310.

The practical difficulty in the way of the overseers and the assessment committees will be to ascertain what dues were paid during the time specified and what the reserved rents amount to. The statute 35 & 36 Vict. c. 77, s. 10, requires returns to be made to the Secretary of State on or before February 1st in each year of the annual amount of the mineral wrought from the mines during the previous year, but it expressly prohibits the return from individual mines being open to inspection without the consent of the mine owner. The 25 & 26 Vict. c. 103, s. 13, gives the committee power to call for numerous documents but not to call for private papers and accounts, such as these. If the mine owners do not supply the requisite information on these points the values must be made upon estimates framed in accordance with the rule expressed in this section, and if they should be considered excessive the persons aggrieved will have their remedy by appeal.

The Local Government Board in their circular letter point out that the whole of the machinery, works, and buildings will be covered by the assessment estimated upon the dues.

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The overseers have an option as to who is to be rated. They will often find it impossible to ascertain who are the persons working the mine, and therefore will choose the ostensible agent. It seems that he will be liable personally for the rate as an ordinary occupier.

Where any joint-stock or other company is rated for a mine, the 30 & 31 Vict. c. 106, s. 10, enables an officer to be entered in the rate book under the name of such company, and to vote for the property.

Where the mine runs into two parishes it must be divided for the purpose of rating between the two parishes in proportion to the occupation in each. See *Rex* v. *Foleshill*, 2 A. & E. 593; 4 Nev. & M. 360; 4 L. J. M. C. 63.

Deduction of rate by tenant of mine

By sect. 8, where any poor or other local rate which at the commencement of this Act any lessee, licensee, or grantee of a mine is exempted from being rated to in respect of such mine, becomes payable by him in respect of such mine during the continuance of his lease, grant, or license, or before the arrival of the period at which the amount of the rent, royalty, or dues is liable to revision on re-adjustment, he may (unless he has specifically contracted to pay such rate in the event of the abolition of the said exemption) deduct from any rent, royalty, or dues payable by him one-half of any such rate paid by him:

Provided that he shall not deduct any sum exceeding what one-half of the rate in the pound of such poor or other local rate would amount to if calculated upon the rent royalty, or dues, so payable by him.

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A covenant in a lease of iron-stone mines to pay a certain rent, "free of all rates, taxes, and deductions whatsoever, parliamentary, parochial, or of any other nature," is not a "specific contract to pay the poor rate, in the event of the abolition of the exemption" of iron-stone mines within sect. 8 of 37 & 38 Vict. c. 54, and the lessee is therefore entitled under that section to deduct half the poor rate from the rent. *Duke of Devonshire* v. *Barrow Hæmatite Steel Co.*, L. R. 2 Q. B. D. (C. A.) 286; 36 L. T. (N.S.) 355; 46 L. J. Q. B. 435. In the court below, 35 L. T. (N.S.) 474; 46 L. J. Q. B. 96.

And again, a covenant by the lessee in a mining lease to pay "all manner of taxes, rates, assessment charges, and impositions whatever . . . which now are or which shall at any time hereafter be imposed upon the said demised mines and premises," is not a specific contract to pay the poor or any other local rates in the event of the abolition of the exemption formerly existing, within the meaning of 37 & 38 Vict. c. 54, s. 8: *Chaloner* v. *Bolckow*, 39 L. T. (N.S.) 134.

By sect. 9, where any occupier, lessee, licensee, grantee, or other person is authorized by this Act to deduct any rate or sum in respect of a rate from any rent, royalty, or dues payable by him, then,—

(1.) Any payment so authorized to be deducted shall be a good discharge for such amount of rent, royalty, or dues as is equal to the amount of such payment, and shall be allowed accordingly.

(2.) Any payment so authorized to be deducted may be recovered as an ordinary debt from the person to whom the rent, royalty, or dues may be payable. Mines.

(3.) The person receiving the rent, royalty, or dues shall have the same right of appeal and objection with reference to the rate and to the valuation of the hereditament in respect of which the rate is payable as he would have if he were the occupier of such hereditament.

By sect. 10, after the commencement of the Act the hereditaments to which the Poor Rate Acts are extended thereby, and which are thus made rateable to the relief of the poor, shall be rateable to all local rates in like manner as if the Poor Rate Acts had always extended to such hereditaments. Liability of property to local rates as well as poor rates.

Eleventhly. The sole inquiry when assessing property is, as to the annual value of the land to the occupier; and, therefore, it is immaterial what may be the tenure of the land, or the extent of the interest which the tenant holds in it. The annual value will be the same, whether the tenure be freehold, copyhold, customary or leasehold, and whether the land be held by a person who may be tenant for life, or for an estate of inheritance. No mortgage or similar charge upon the property will affect its rateable value. The tenure of the property, or the interest of the occupier therein, is immaterial

Even when the occupation is arbitrary on the part of the landowner, and may be shifted from one place to another at his will, yet so long as it lasts the occupation is the subject of assessment. As when a railway Shifting occupation.

company allows the supports of an electric telegraph to be in one part of the line, but requires them to be movable elsewhere at their pleasure: *The Electric Telegraph* v. *Salford, ubi supra.*

Allowance for the cost of collection.

Twelfthly. In some cases the nature of the property which is the subject of profit is such, that, in the ascertaining of the annual value, an allowance must be made for the expenses of collecting the profit. Such instances occur in the valuing of piers, quays, canals, docks, railways, and the like, where the profits are raised by the dues or tolls payable by parties using them, but which dues are collected at much expense. It will be seen hereafter, that this allowance is also to be made in respect of tithe rentcharges.

Occasionally, this exigency occurs also in house property, particularly where it is of a low and inferior description, in which cases the rents are collected at small invervals, and consequently at a great cost of time and money, which diminishes the annual profit derivable from the property.

But it is only where the nature of the property itself requires an expenditure in collection that an allowance is to be made. No such allowance is to be made because agents or commissioners are appointed to collect the rentals for the purpose of distribution, or in discharge of trusts, for the assessment depends upon the value of the property, not with respect to the expenses that the individual may have occasion to incur in the collection, but with respect to the property itself. See *Ex parte Lord Cowley*, L. R. 1 Exch. 288.

Thirteenthly. The statute refers, for the mode of estimating the value, to the market price of the rent of the tenements to be valued. This is available in most of the ordinary kinds of rateable property; but there are cases in which the reference will be ineffectual, and the law at present supplies no other means of estimating the value. There is much rateable property which is not strictly capable ofbeing valued by reference to its letable value. Mode of estimating the value by reference to presumed letting.

Such are most of those large works which are carried on by extensive corporations or trading companies. The works are of such magnitude and of such a nature that the idea of letting them is unreasonable, though by no means impossible.

The lease of a canal, of a large dock, or the main line of a railway, cannot be contemplated for practical purposes. It is true that there are not unfrequently leases of some of these works, but such leases, as noticed above, are rather in the nature of assignments of the whole concerns, with all their appurtenances, as well movable as immovable, than demises of the mere tenement or rateable hereditament. Leases of canals, docks, and railways.

Hence, it becomes necessary in practice to seek some other mode of arriving at the correct estimate of the value of that property, which alone is the subject of assessment. Great difficulties arise in the process. The annual value of the land must be evolved from its produce. Thus, the total receipts produced by those parts of the works which are not in them- Estimate from receipts.

Estimate from receipts.

selves capable of being valued according to the ordinary rule, must be ascertained, and out of those receipts the valuer must ascertain the amount which represents the annual value of the land corresponding with the rent which is paid to the owner of a field or house for its occupation. These receipts in gross represents—the value of such occupation—the return for the capital expended upon the land, that for the capital expended in the working of the undertaking (being in fact the profits of trade, embracing sometimes the expense of management, direction, collection, and like contingencies),—the return for the annual repair and sustentation of the works—sometimes the reserve for the restoration of permanent works, and lastly, the return for the rates and taxes payable in respect of the undertaking.

These various subjects of inquiry are more or less to be met with in all investigations into the value of these species of property.

Aid supplied by the legislature.

The first difficulty is of course to arrive at the actual receipts. If these be ascertained in gross it may generally be left to the owners of the property to make out the separate items of the receipts, and establish the extent of their exemption. As most of these works are of a public character, there is generally published some statement of the accounts, from which the receipts as well as the items of expenditure are publicly disclosed. But as to one important class of works, assistance has been afforded by the legislature; and the 8 & 9 Vict. c. 20, s. 107 (the General

Railways Clauses Consolidation Act, 1845), enacts "that the company shall every year cause an annual account in abstract to be prepared, showing the total receipts and expenditure of all funds levied by that Act, or the special Act for the year ending on the 31st day of December, or some other convenient day in each year, under the usual distinct heads of 'Receipts' and 'Expenditure,' with a statement of the balance of such account, duly audited and certified by the directors, or some of them, and by the auditors, and shall, if required, transmit a copy of the said account, free of charge, to the overseers of the poor of the several parishes through which the railway shall pass, and also to the clerks of the peace of the counties through which the railway shall pass, on or before the 31st day of January then next; which last-mentioned account shall be open to the inspection of the public, at all reasonable hours, on payment of the sum of one shilling for every such inspection;" and the company is rendered liable to a penalty of 20*l.* for every omission. It will be noticed, however, that the Act does not require the company to show the receipt and expenditure in respect of the railway in each parish through which it passes.

Terminal charges.

Among the subjects of calculation for the purpose of ascertaining the value of a railway are terminal charges. These are the earnings of the staff and appliances at the stations and termini of the line, and there is a corresponding allowance made for the cost: *Reg.* v. *Eastern Counties Railway Company*, 4 B. & S. 58; 32 L. J. M. C. 174.

Deductions from gross receipts.

Assuming that the gross receipts have been ascertained, it is necessary to be determined what is legally to be deducted from them. This has been considered most frequently in the cases which have occurred in the rating of railways, where the company, besides making and maintaining the line, carry on the trade of carriers of passengers and goods, and also in the rating of docks or harbours and rivers liable to assessment.

Deductions from gross receipts.

It has been held that from their receipts the following deductions are proper; namely, a deduction of interest on the capital employed in engines, carriages, &c., by the company as carriers; and on the same capital for tenants' profits and profits of trade; of a per-centage for the depreciation of such stock beyond usual repairs and expenses; of a sum for the annual cost of conducting this business; of the separate value of land rated in other parishes; and of a sum for the cost of the ultimate fundamental renewal and reproduction of rails, chairs, sleepers, &c.: *Reg.* v. *Grand Junction Railway Company*, 1 N. S. C. 303; 4 Q. B. 18; *Reg.* v. *Great Western Railway Company*, 2 N. S. C. 205; 6 Q. B. 179; and *Reg.* v. *Great Western Railway Company*, 15 Q. B. 379, 1085.

Again, interest and tenants' profits, or the capital laid out in machinery, boats, movable and fixed plant of the commissioners of a harbour, have been held to be properly deducted from their gross receipts: *Reg.* v. *The Tyne Improvement Commissioners*, 6 L. T. N. S.) 489. Where an actual demise on any terms

would be impracticable, and where a demise on the terms that the tenant should receive a profit beyond the expenses of collection, would, if practicable, be illegal, no deduction should be made on account of tenants' profits: *Mersey Docks* v. *Liverpool*, L. R. 9 Q. B. 98.

The allowance for the average annual depreciation of the permanent way of a railway is to be made, though the costs of the renewal be not incurred in the year, nor any funds be set aside annually for the renovation: *Reg.* v. *London, Brighton, and South Coast Railway Company*, 15 Q. B. 313. Whether, if the company actually pay the cost of the renewal out of the capital, this amount should be allowed, is open to some question. In *Reg.* v. *Great Western Railway Company* (*ubi supra*), the court have decided in the negative, but that judgment is somewhat qualified by the latter decision.

Railway companies are often entitled to running powers, *i. e.*, the right of carrying passengers over or across the line of another company. As these powers do not create an occupation by the company entitled to use them, that company was not liable to be assessed in respect of them: *Midland Railway Company* v. *Badgworth*, 34 L. J. M. C. 25. And where one company receives tolls earned by another passing over its line, and pays such tolls over to the latter, the former is entitled to have the amount of the tolls so paid over deducted from the gross receipts in

Running powers of railways.

ascertaining the rateable value: *Reg.* v. *St. Pancras Vestry*, 32 L. J. M. C. 146; 3 B. & S. 810.

Interest. But no deduction can be allowed for interest on the sum expended in procuring the Act under which the company are constituted, in raising the capital, or other original expenses, nor for actual loss on branch lines: *Reg.* v. *The Great Western Railway Company*, 15 Q. B. 379, 1085; 16 Jur. 217; 21 L. J. M. C. 84. Nor for a cash balance at the banker's, nor for stores on hand, nor for the cost of a steam-boat used in the making of a dock the subject of the rate: *Reg.* v. *Tyne Improvement Commissioners*, 6 L. T. (N. S.) 489. As regards the floating capital of a railway company, it has been laid down that whether any allowance should be made in respect of interest or tenants' profits thereon depends on the question whether a greater delay occurs in realizing the returns than is ordinarily incidental to the employment of capital: *North Staffordshire Railway Company* v. *Rushton Spencer*, 7 Jur. (N. S.) 363; 30 L. J. M. C. 68.

Line worked at a loss. It is now established, though not without differences in the decisions of the courts, that a line worked at an absolute loss is not liable to assessment, and that the fact of a line conducing to profit on another line with which it is connected will not render it assessable, if not in itself of rateable value, and will not enhance the value which it would possess of itself in the parish where it is assessed: *London and North Western Railway Company*, apps., *Cannock*, resp., 10 B. & S. 334; *Reg.*

v. *Haughley*, 7 B. & S. 624; *Reg.* v. *Llantrissant*, 28 L. J. M. C. 93; L. R. 4 Q. B. 354; 10 B. & S. 328; *South Eastern Railway Company* v. *Dorking*, 23 L. J. M. C. 85; 3 E. & B. 491. But where parts of a line of railway passed through a district where there were two other competing lines, and the appellant's gross takings in the respondent's parish were more than absorbed by the expenses chargeable for the working thereof, plus the deduction allowed by 6 & 7 Will. 4, c. 96, s. 1, but on the basis of the receipts derived from the enhancement of the traffic on the other parts of the system, the rateable value of the appellant's line in the parish was equal to 45 per cent. of the gross receipts; it was held that the appellants were rightly rated at that amount: *London and North Western Railway Company* v. *Irthingborough*, 35 L. T. (N. S.) 327; 40 J. P. 790.

Tramways.

The owners of tramways, constructed under the provisions of the Tramways Act, 1870 (33 & 34 Vict. c. 78), are rateable to the poor rate in respect of the occupation of the soil by the tramways so constructed, though the public may still use the surface of the rails as part of the highway: *Pimlico, Peckham, and Greenwich Street Tramways Company* v. *Greenwich Union Assessment Committee*, 29 L. T. (N. S.) 605; 43 L. J. M. C. 29; L. R. 9 Q. B. 9; 38 J. P. 117. And in assessing the rateable value of tramways the annual gross traffic receipts earned over the entire system must be taken as the basis of the estimate of the rent, and the net receipts in each parish as the criterion of the rateable value in each parish. Where, however, a tramway

route begins and ends in the same parish, the net receipts of that route is the value upon which the tramway owners must be rated. [*Ibid.*] And where a tramway route extends through two or more parishes the fairest practicable mode of apportioning is by dividing the receipt from each district service route in proportion to the lineal mileage of such route in each parish respectively. The general expenses, except horse expenses, should be allowed proportionately to the number of car miles run over in each parish of the several district service routes therein: *London Tramways Company (Limited)* v. *Lambeth*, 31 L. T. (N. S.) 319.

The following is laid down as the proper method of ascertaining rateable value of railways and docks:—

1. A better criterion of the receipts due to the portion of a line of railway within the limits of a parish may be gained by taking the average mileage receipt of the whole line than by taking a mileage division of the gross rates less the amount charged at each end for collection and delivery, although every line may not have equally contributed to the receipts of the whole line.

2. Whatever part of a goods rate covers ordinary station work at a terminus should be taken to be receipts of the line to which the terminal station belongs.

3. A railway company provided the working stock of a line of railway, the company being paid for a time

at the rate of 1s. 1d. per train mile and afterwards by a per-centage of 33½ upon the total traffic receipts. The amount they received in 1872 was £7,254. This sum, it was held, should be taken as the aggregate amount of the expenses for locomotive power and repairs of carriages and waggons and relative services, and be divided amongst the parishes, according to the train miles run in each. It was further held that there should be no deduction for profits on capital, but that there should be a deduction for tenant's profits as distinct from profits on capital, and that the amount should be five per cent. upon the gross receipts, such per-centage to cover outlay on floating capital, stores, furniture, and the like.

4. The main line of a railway company ran through a certain parish for a distance of two miles and eight chains; the gross receipts in the parish were ascertained by dividing the gross rates by mileage between the forwarding and receiving stations, after deducting, in the case of the merchandize traffic, the amount charged at each end for collection and delivery. This was held to be a proper mode of calculating such receipts, provided a deduction for cartage is made at the clearing-house, and that, as regards local traffic, only what the company expend in carting goods carried at carted rates, and a reasonable profit thereon, to be taken off the gross rate.

5. A railway company owned and occupied certain docks, which, on their seaward side, were employed in the accommodation of shipping and the transit of goods by sea. In other respects they were an adjunct

of the railway. The company were held liable to be rated for such docks; but the rateable value was to be ascertained in the following manner :—From the estimated value of the docks should be deducted the value of such portions as gave to the company an income arising from dock dues and the like, so as only to charge them with expenses relating to the maintenance and repair of the docks, locks, and wharves, the hydraulic apparatus, and the pay of the staff employed in and about the admission and despatch of vessels; and if the receipts were not equal to the expense the company should only be rateable for this land according to its improved value, the other receipts in the docks being brought into the company's railway account: see—*Manchester, Sheffield, and Lincolnshire Railway Company, and Trent, Ancolme, and Grimsby Railway Company* v. *Caistor Union;* and the *Same* v. *The Glanford Brigg Union,* 32 L. T. (N.S.) 264, in the Court of the Railway Commissioners.

Expenses of management.

In a case of a cemetery company, the Court of Queen's Bench decided that the expenses of the management of the company, including the salaries of the directors and auditors, could not be deducted, considering that these expenses had nothing to do with the occupation of the land, but were rather an expenditure of the profits derived from the fund for the general benefit and purposes of the company: *Reg.* v. *St. Giles, Camberwell,* 14 Jur. 519; 19 L. J. R. M. C. 132; 14 Q. B. 571. And where unpaid commissioners manage a public work, such as the docks at the mouth of a public navigable river, no deduction is allowable for

the expenses of their management: *Reg.* v. *The Tyne Improvement Commissioners,* 6 L. T. (N. S.) 489.

But a deduction for the expenses of management and direction has been allowed in another company, even when no expense had been in point of fact incurred, the only business of such company having been the occupation of the land: *Reg.* v. *Southampton Dock Company,* 4 N. S. C. 460; 14 Q. B. 587.

Thus, then, from the gross receipts, many of these various deductions being allowed, what may be termed the gross estimated rental is obtained. Nevertheless, as already noticed, the gross receipts are often given for this rental.

In assessing a racecourse and stands upon it, the hypothetical tenant must be assumed; and to arrive at the rateable value the takings on the racecourse by the tenant from all sources of profits from the occupation must be ascertained, as well as the expenses, so as to ascertain what rent a hypothetical tenant would give for liberty to use the land as a racecourse. The actual rent paid to the owner of the soil is not necessarily the criterion of value. Therefore, in ascertaining the rateable value of the land used as the racecourse the assessment committee may call for the books of the racecourse keeper, or may give affirmative evidence of the amounts of the profits made, they being a material element, though not an absolute test in determining the rateable value: *Reg.* v. *Verrall,* 45 L. J. M. C. 29; S. C.; *Verrall* v. *Croydon Union,* 33 L. T. (N. S.) 379.

The statute applies to Tithes.

Proceeding with the consideration of this clause of the Act, it is to be next observed that a doubt was raised as to the meaning of the term hereditaments used in it, and it was contended in the case of *Reg.* v. *Capel*, 12 A. & E. 283, that it did not include tithes. But the court decided that the term did apply to tithes, and that consequently they were to be assessed upon the principle prescribed by the Act in like manner as land or houses.

The Court of Queen's Bench, in their judgment in the case of *Reg.* v. *Goodchild*, hereafter referred to, say, "It is necessary in the assessment of the tithe-owner to proceed by analogy, which analogy must be as large and liberal as is necessary to effectuate substantial equality in the assessment, and at the same time compatible with the maintenance of the principle of the statute."

But the assessment of the tithes has been a matter of much difficulty and controversy.

Mode of valuing tithes according to the doctrine of the Poor Law Commissioners.

The Poor Law Commissioners, in a circular letter, dated 16th September, 1840, expressed their understanding of the proper mode of valuing tithes.

But the subject has been fully reviewed by the Court of Queen's Bench, in several cases which in late years have been brought before that court upon appeals against poor rates.

It will be necessary to consider the results of the decisions fully hereafter. But it is well to set forth

the views expressed by the Poor Law Commissioners in their letter, as for the most part they have been adopted. Tithes.

They observed that Tithes, whether they constitute a part of the liability of a parson or vicar, or be in the hands of an appropriator or impropriator, are hereditaments, and are, therefore, subject to be rated on the estimate of their net annual value, as defined in that clause: *Reg.* v. *Capel*, 12 A. & E. 382; 9 L. J. M. C. 65.

"2. The gross annual value '(*i.e.*, the gross estimated rental)' of the hereditaments, is the entire sum which might be received in rent from a tenant, exempt from rates, taxes, or any of the other outgoings described in the first clause of the Act. Where the tithe has been commuted, and the tithe-owner is in the receipt of the tithe commutation rentcharge, the gross annual value will be the gross amount of the rentcharge, including the sum allotted for rates and taxes."

This passage, as already noticed, has been qualified by the Poor Law Board in their circular letter of May 1859, so far as it applies to the gross estimated rental in the columns of the rate, but it cannot be denied that it is a proper exposition of the gross annual value.

"This gross annual value, ascertained by reference to the rentcharge, will vary every year according to the average prices of corn, and the overseers will be bound to rate the tithe-owner on the value of the rentcharge of the current year, just as they are bound to

Tithes.

rate all other ratepayers upon the value of the rateable property, estimated at the time of the rate being made.

"3. The estimate of the net annual value is founded on the supposed rent which might be realized by the letting of the rateable hereditaments. This will entitle the tithe-owner to an advantage which, the commissioners believe, he has not in all cases had the benefit of. The rent which a tenant would consent to pay for the rentcharge, supposing the rentcharge to be let, would obviously be a sum which would remunerate him for the trouble of collection, and insure him against all risk of loss of rentcharge itself, and of loss of interest incurred by the obligation to advance rent, and by occasional delays in recovering the rentcharge, and against all incidental expenses incurred in enforcing his rights.

"The compensation of the tenant taking those risks will obviously exceed the payment which the tithe-owner would make to an agent or collector who incurs no risks, and is not bound to insure and pay to the tithe-owner a certain fixed sum at fixed times.

"To the benefit involved in this distinction the commissioners consider the tithe-owners to be clearly entitled by the express terms of the definition of net annual value in the Parochial Assessments Act."

The Court of Queen's Bench confirmed this opinion in *Reg.* v. *Goodchild, Reg.* v. *Lamb,* and *Reg.* v. *Hawkins,* 37 L. J. M. C. 233, 254; E. B. & E. 1, so

far as it applies to the allowance for the annual cost of collection, the annual losses by reason of non-payment, and the annual expenses of legal process for the recovery of rentcharges. A claim was made in respect of what was termed the lessee's profit, being the sum which, it was urged, a lessee would seek to make over and above the compensation for these expenses, but the court, after deliberation, refused to allow it as a necessary deduction, though they admitted that possibly there might be a foundation for the claim if it was not fully compensated by the allowance made on the other heads. It is believed that in practice no claim for this extra allowance is now made, or, if made, substantiated. Tithes.

The commissioners continued :—

"4. Having ascertained the rent at which the rentcharge might be reasonably expected to let, it will next be the duty of the overseers to ascertain the amount of deductions which are to be made in respect of rates and taxes, and other out-goings (if there be any such) which may be necessary for keeping up the value of the hereditaments."

* * * * * * * *

"Tithe commutation rentcharge, being a charge to which tithe itself is not liable, no deduction is to be allowed for this. Neither does the tithe commutation rentcharge appear to be a subject of repairs or insurance, or of any other expense for keeping up its value. If no such liability exists, no deduction can be allowed for such out-goings.

Tithes.

"Having made these deductions from the supposed rent, the estimate of the net annual value will be complete, and the amounts of the gross annual value and the net annual value thus estimated are to be inserted in the rate-book, in the columns respectively headed 'Gross Estimated Rental' and 'Rateable Value.'"

The commissioners then proceeded to give an example from the case of *Reg.* v. *Capel*, as follows:—

The gross annual value of the tithe composition was estimated at - -				£660	0 0
From this were deducted—					
1. For the compensation of a lessee undertaking to collect the tithe composition, and to pay a fixed net rent to the tithe-owner - -	£37	5	0		
2. For usual tenant's rates and taxes - - - -	82	15	0		
3. For ecclesiastical dues -					
Total deductions - - -				120	0 0
Leaving a net annual value, or rateable value, of - - - - -				£540	0 0

The foregoing remarks of the commissioners apply equally to the case of tithes in the hands of ecclesiastical and of lay persons and corporations.

The rentcharge for the tithes must now be taken according to the amount settled by the commutation,

and the overseers are not at liberty to refer to the terms or basis upon which that commutation was settled, even though it proceeded upon the supposition that no deduction should be made in respect of future rates and taxes: *Reg.* v. *Goodchild,* E. B. & E. 1. Tithes.

It will be remembered that reference was made above in page 21, to the decisions in cases where the tithes were commuted under local Acts for annual fixed rents to be paid clear of rates and taxes, in which it was held that no assessment to the poor rate was to be made thereon. In *Rex* v. *Boldero,* 4 B. & C. 467; *Reg.* v. *Wiston,* 5 A. & E. 250; and *Rex* v. *Great Hambleton,* 1 A. & E. 145, the language of the Acts was held not sufficient to exempt the rents from assessment.

By sections 40, 41, and 42 of the Tithes Act, 6 & 7 Will. 4, c. 71, where there is an extraordinary charge for tithes in respect of hop ground and market gardens newly cultivated, or in respect of coppice woods, the amount of such extraordinary charge is to be added to the ordinary charge in estimating the same as chargeable to all parliamentary, parochial, county, and other rates, charges, and assessments to which the tithes are liable.

General rule as to the deductions.

It will now be proper to consider the deductions required to be made by this Act, and in the first place to notice that the Court of Queen's Bench, in their judgment in the case of *Reg.* v. *Goodchild,* observe that "it is only by considering the deductions and allowances specified in the Act as instances applicable to one

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great class of property and not as a complete enumeration of all, and by applying those analogically to other classes, that the statute can have its proper effect given to it."

Explanation of the deductions for repairs.

Upon the subject of the deductions which are to be made from the estimated rent, the Poor Law Commissioners, in the letter upon the Act of March 3, 1837, directed to the overseers, remarked:—

"In estimating the cost of repairs it would appear that their annual average cost on a series of years should be considered, not the cost of such repairs as may be particularly needed at the time; and you will take care not to admit into your calculation the cost of repairs or other improvements by which the hereditaments would be put into a better state than that at which they will continue to command the present estimated rental. This is the limit as to the repairs."

In the 9th vol. of the Official Circular, p. 188, the commissioners stated: "Where the yearly outlay for repairs is likely to be uniform for many years, a small number of years may be taken for the purpose of the average; but when the condition of the property is likely to fluctuate extensively, so that a very considerable outlay may be needed in a particular year, while in ordinary years a small expenditure only is required, then the average cost will be most fairly calculated by including a large number of years in the series on which the average is taken." This rule is unfortunately very vague, and according to the definition in the

statute no precise rule can be laid down. It is now attempted in some places to express the deductions by different scales with reference to different classes of property, and in the Act for establishing uniformity of valuations in the metropolis, 32 & 33 Vict. c. 67, there is a schedule which contains maxima sums to be allowed as deductions in respect of certain classes there specified. Tithes.

This course of proceeding is convenient for the guidance of assessment committees dealing with great numbers of hereditaments in many parishes, but it is not strictly applicable to parochial valuations.

Where the premises are let at a certain rent, the landlord finding the chief materials for repairs, and the tenant the residue, the cost of the repairs done by the tenant is not to be deducted from the rent so paid to arrive at the rateable value: *Reg.* v. *Wells*, L. R. 2 Q. B. 542; 36 L. J. M. C. 109.

Not only is an allowance to be made for the annual ordinary repairs, but, as already stated, the depreciation by wear and tear of the permanent way of a railway is to be allowed for, though the company may actually incur no expense in respect thereof, nor set aside any funds for the renovation: *Reg.* v. *London, Brighton, and South Coast Railway Company*, 4 N. S. C. 511; 15 Q. B. 313; *Reg.* v. *Great Western Railway Company*, 15 Q. B. 1088. This indeed is in accordance with the rule applied to ordinary dwellings where no inquiry is usually made as to the actual expenditure.

Tithes. The court, in *Reg.* v. *Wells, ubi supra,* indicated an opinion that in regard to farmhouses, buildings, and corn mills, an allowance ought in general to be made in respect of the contingent or future renewal of the buildings and machinery. Where an arbitrator, in deciding the value of a railway, allowed for the depreciation in the rolling stock an average sum calculated on the number of years the stock would last, the Court of Queen's Bench refused to interfere to overrule his award; considering that the hypothetical tenant would take into account in reference to the depreciation the probability that his tenancy would continue beyond the year: *Eastern Railway Company.* v. *Haughley,* L. R. 1 Q. B. 666.

In regard to canals, allowance is to be made for the ordinary repairs of the channels, locks, and the like; also, where necessary, for the expenses of supplying the canal with water: *Rex* v. *Oxford Canal Company,* 10 B. & C. 163.

And insurance' The commissioners, in their letter on the Act, continued:—"The amount of the insurance against loss by fire to be deducted from the amount of the rent, must be limited to such only as applies to the rateable property, not such as applies to furniture," [stock,] "or other property, not subject to the rate."

Where the nature of the property is such that no insurance can be effected, no deduction for the insurance can be allowed: 9 Off. Cir. 188.

"The Act," they observed, "provides, that in case any expenses, besides those for repairs or insurance, should be found necessary to maintain the hereditaments in the state to command the estimated rent, such expenses shall also be deducted from the estimated rent. This provision is made to meet the possibility that such expenses not coming within the description of repairs or insurance may be found; but as such expenses must be extremely rare, the commissioners do not think it necessary to attempt to describe them." But the passage in page 105, cited from the judgment in *Reg.* v. *Goodchild*, must be here attended to. Tithes.

It is to be noticed, however, that the expenses of leases, conveyances, surveys, and valuations are not the subject of deduction; nor the expenses incurred in procuring an Act of parliament for a railway or other public works: *Reg.* v. *Great Western Railway Company*, 2 N. S. C. 222; 6 Q. B. 179.

In regard to deductions in the assessment of tithes, the observations of the commissioners in their letter dated September 16, 1840, above referred to, should be observed. Deductions in regard to tithes.

They add, "There are many payments of ecclesiastical tithe-owners consequent upon the receipt of tithe, but which, not being necessary to maintain the value of the tithe, do not appear to constitute subjects for deduction from the gross value of their tithe.

"Instalments of payments to Queen Anne's Bounty, for advances for improvement of the living, are not Payments to Queen Anne's Bounty.

Tithes. allowable, any more than similar charges incurred by other owners of hereditaments for the improvement of their property. Nor are divisions of the net value of the tithe between the tithe-owner and other persons, such as fee-farm rents, allowable."

This opinion of the Poor Law Commissioners in reference to the payments to Queen Anne's Bounty, was confirmed by the Court of Queen's Bench in the case of *Reg.* v. *Hawkins,* E. B. & E. 1.

Curate's salary. The commissioners then stated that the "Expenses of providing for the performance of the duties of incumbency, as for a curate's salary, cannot be deducted: see *Rex.* v. *Joddrell,* 1 B. & Ad. 403."

But this last opinion was materially modified by the judgment of the court in the case of *Reg.* v. *Goodchild.* The court there laid down this rule, that "where the curate is merely a substitute for the incumbent, as where the clergyman is non-resident, or being resident, from sickness, infirmity, or other less creditable cause, does not perform his own duty personally, but employs another person instead," no deduction was to be made. "But where, from the vast size or population of a parish, one man's labour is entirely insufficient for the duties necessarily to be discharged by the incumbent, and he employs a curate to aid him, the salary is to be allowed. If the bishop of the diocese acting under the statutes require the minister to appoint a stipendiary curate, there is no doubt that the salary is to be deducted. But if a clergyman, where the need is

great, from a sense of duty, appoints a curate, himself devoting all his own time and attention to his cure, the reasonable stipend of the curate ought to be deducted. The application of this rule in particular cases must be for the parish officers and the justices." Tithes.

This decision was afterwards explained to apply to those cases only where the incumbent has one benefice, or two parishes immemorially united into one benefice. A clergyman holding two separate benefices could not claim any deduction for a curate whose services were rendered necessary by reason of the incumbent holding the two benefices: *Williams* v. *Llangeinwen*, 1 B. & S. 699; 31 L. J. M. C. 54; 5 L. T. 309; *Wheeler* v. *Burmington*, 1 B. & S. 709; 3 L. J. M. C. 57; 5 L. T. 345.

It is also to be stated that this appeared to be a deduction only allowable to a clerical incumbent. If a lay impropriator employed a curate, and paid him a stipend out of the tithe, it seemed from the observations of the judges in the last case, that he could not have claimed a deduction for the stipend: see also *Reg.* v. *Groves*, 29 L. J. M. C. 179.

This decision, however, as to the allowance for the curate's services, was disapproved of by the court in subsequent cases. Hence, in one case, they held that it was to be made with reference to all the rateable income of the incumbent: *Reg.* v. *Scriven with Tentergate*, 8 L. T. (N. S.) 352; 9 Jur. (N. S.) 1125. At length, in the case of *Reg.* v. *Sherwood*, L. R. 2 Q. B.

Tithes. 503; 8 B. & S. 596; 36 L. J. M. C. 113; 16 L. T. (N. S.) 663, the Court of Queen's Bench entirely reversed the previous decision, and held that the deduction for the curate's salary could in no case be allowed, as the payment was only a disposition *pro tanto* of the annual profits of the tithe with which the overseers had nothing to do, and the question as to non-beneficial occupation had been settled by the decision of the House of Lords, in the case of *Jones* v. *The Mersey Docks Board,* to be noticed hereafter.

It is right to mention that the court, in the case of *Reg.* v. *Goodchild,* decided that no deduction was to be made in respect of the incumbent's own spiritual services. His personal labours, they said, are not a charge on the tithes, but on his personal conscience.

Ecclesiastical dues. "But," the Poor Law Commissioners continued, in the above quoted letter, "ecclesiastical dues" (such as synodals), "payable by the tithe-owner, were decided by the same case (*Rex* v. *Joddrell*) to be a subject of deduction, inasmuch as they diminish the ability of the tithe-owner in respect of which he is by the statute of Elizabeth rateable. The commissioners believe that this would still be held to be lawful since the passing of the Parochial Assessments Act; and they also believe that an allowance to the tithe-owner for the expenses of repairing the chancel would, for the same reason, still be held to be lawful in all cases in which the tithe-owner is liable to that expense."

The deduction for the ecclesiastical dues was conceded in the late cases; but no reference was then made to

the charge for the repairs of the chancel. This deduction is, however, generally allowed by overseers, though the above proposition is not altogether consistent with the decision of *Reg.* v. *Capel*, which seems to have put tithes upon the same footing as other hereditaments, and no deduction would be allowed to the occupier of lands in respect of liabilities to which he would be subject *ratione tenuræ*. But assuming that such deduction is properly made, the annual charge must be estimated, as in the cases stated in page 106, by an average of several years. In neither case is the number of years in any way fixed, but, in regard to the chancel, it seems most fair to refer to the course pursued in the parish in regard to the estimate for the repairs of other buildings. Tithes.

So, also, an allowance should be made for the payment of tenths and first fruits; because, as it is said, they are ecclesiastical dues (see 3 Off. Cir. 12); but the true reason seems to be because to the extent of those payments the parson does not enjoy the tithe, but pays it to the Crown, in which case the property is by royal prerogative exempt from rate.

In the case of *Reg.* v. *Goodchild*, the Court of Queen's Bench, allowing a deduction for tenths and first fruits, point out that as these are calculated on the whole *annui proventus* of the incumbent, the total amount must not be deducted from the tithe, but must be deducted only from this source in proportion to the rest of the revenues of the incumbent.

Where parishes are divided for ecclesiastical purposes under any of the modern Acts applicable to this subject, Ecclesiastical districts.

Tithes. and there is a division of the tithes, and a portion is duly assigned to the incumbent of the new parish, the original rector or vicar ceases to be liable for that portion, and doubtless the new incumbent will be so. But if the incumbent of the parish make an annual payment, whether out of the tithes or otherwise, to the minister of the new district, he will not be entitled to deduct the amount from the assessable value of his tithe rentcharge.

In the case of *Reg.* v. *Goodchild,* the Court of Queen's Bench decided that this could not be allowed where the payment was made voluntarily, but expressed an opinion that the deduction would be allowable when the payment was made under some of those statutes. Thereupon it was sought to rate the minister of the new district for his stipend; as, however, this was only the payment of a sum of money or an annuity, that court decided that he was not assessable in respect thereof: *Frend* v. *Tolleshunt Knights,* 28 L. J. R. M. C. 169; 8 Jur. 866. But the same court afterwards held that a lessee of tithes was not entitled to a deduction in respect of a stipend paid by him out of those tithes to the minister of a chapel: *Reg.* v. *Groves,* 29 L. J. R. M. C. 179; 6 Jur. 1014. And it has been since decided in *Lawrence* v. *Tolleshunt Knights,* 31 L. J. R. M. C. 148; 8 Jur. (N. S.) 886, that the opinion previously expressed upon this point, in *Reg.* v. *Goodchild,* cannot be supported, and that the incumbent who receives the rentcharge cannot claim a deduction in respect of the stipend which he pays to the minister of the new district carved out of his parish.

Returning to the assessment of landed property in general, it is to be observed that in estimating the deductions to be made from the rent payable to the landlord, no allowance can be made for a ground rent paid to a superior owner: *In re Elstone and Rose*, 9 B. & S. 512; 34 L. J. M. C. 135; or for quit-rents, chief-rents, fee-farm rents, fines, amerciaments, or heriots, interest on mortgages, or similar charges, as these are all only divisions of the net annual value of the land. On the ground the occupier of a wharf was not allowed to deduct the value of certain of the wharfage dues collected by him, but payable to another party: *Reg.* v. *Rhymney Railway Company*, 28 L. J. M. C. 75; L. R. 4 Q. B. 76; 10 B. & S. 198. Even where the occupier was bound to pay a sum equal to the annual value to commissioners under an assessment for local purposes, the land was nevertheless assessable upon such value: *Reg.* v. *Vange*, 11 L. J. R. (N. S.) M. C. 117; 3 Q. B. 242. But a particular rate to be levied upon certain lands in a parish, and not upon others, being raised for the protection of the property from the sea, was held, before the passing of this Act, to be properly deducted, on the ground of unfairness in the omission to deduct it: *Rex.* v. *Adames*, 4 B. & Ad. 61; 1 N. & M. 162.

No deductions for quit-rents, or interest of mortgages.

It is not a correct course of proceeding to make a deduction by one uniform rate from all property of a particular character in a parish, though this is often convenient in practice. It will not therefore be proper to deduct a certain percentage from all cottage property, or from all mills or factories, or farm buildings, in a parish, though it may occasionally be right to make

The deductions not to be made by a uniform rate.

a general allowance in respect of repairs in particular classes of property, as with reference to the machinery in such kinds of property as described above. It may be right to consider that all mills require a certain amount of annual outlay for particular repairs, and so of factories; but with reference to the general subject of repairs, the only proper proceeding is to make deductions according to the actual state of each particular premises. See also the observations on page 106.

What rates and taxes are to be deducted.

Continuing now the consideration of the deductions, it must be noticed that the rates and taxes which are mentioned in this section of the statute are the tenant's rates and taxes, and no reference is made to the rates or taxes charged on the owner or landlord in respect of the ownership of the land.

Hence, the poor rate, highway rate, watering rate, lighting (so decided in *Reg.* v. *Goodchild*), watching, police, or borough rate, board of health or district rate, and metropolitan general rate, are to be included in the estimate of those which the tenant is to bear, and are consequently to be deducted.

The tenant's income tax, chargeable under Schedule B. of the Property Tax Act, 5 & 6 Vict. c. 35, is to be deducted on assessing the tithe rentcharge: *Reg.* v. *Goodchild*, and *Williams* v. *Llangeinwen, ubi supra.* But this, it is presumed, is only to be deducted when it is in fact charged and paid, which is a very rare occurrence.

But it has not yet been determined whether the assessed taxes, which are assessed upon persons in

respect of their occupation of houses above a limited amount are to be allowed.

The land tax (so decided in *Reg.* v. *Goodchild*), property tax, and other rates or taxes charged upon the landlord, are certainly not to be deducted in making the valuation of the land or tithe rentcharge.

The particular rate referred to in *Rex* v. *Adames*, in page 115, was treated as a drawback to be estimated in ascertaining the value of the property. In like manner the sewer rate: *Reg.* v. *Hall Dare*, 34 L. J. M. C. 17; 5 B. & S. 785; and the drainage rate: *Gainsborough Union* v. *Welch*, 41 L. J. M. C. 1; L. R. 7 Q. B. 64; 25 L. T. (N. S.) 589; 35 J. P. 773, were held to be properly deducted. But no deduction is allowable in respect of a water rate paid for the supply of water to the premises: *Reg.* v. *Bilston*, 35 L. J. M. C. 73; 6 B. & S. 908.

It is right, however, to observe that though the landlord's property tax is not to be deducted, yet when the receipts of any public company are referred to for the purpose of ascertaining the value of the rateable property occupied by them, a deduction has to be made on account of the income tax paid by the company in respect of their receipts as carriers: *Reg.* v. *Great Western Railway*, 6 Q. B. 205, but not on account of the property tax charged upon the property which they own. Neither was a claim for income tax allowed to a dock company occupying their own lands, which tax was not paid by them on the property, but was claimed

in respect of the estimated profit or income of the supposed tenant of the docks: *Reg.* v. *Southampton Dock Company*, 14 Q. B. 587.

How to be estimated.

In regard to the proper mode of estimating the amount of rates and taxes, the Poor Law Commissioners, in their letter of September 16, 1840, said:—

"No means exist for determining the amount of rates prospectively; these can only be estimated by reference to the amount in the year or years preceding. It would perhaps be most satisfactory in all cases to estimate the probable rates of the ensuing year at the exact amount of the year expiring immediately before the making of a rate; but no objection could be maintained if the estimate was founded on an average of years immediately preceding (as, for instance, three years), provided that the average was always founded on the same number of years, terminating always at the time of making the rate, and that the same calculation was applied to all the rateable property in the same parish. The commissioners consider, however, that the calculation made on the year immediately preceding, will be preferable to any other."

When the landlord or owner pays the rates and taxes on a composition, and consequently a less amount of rates is received by the parish than if the occupier paid them, the premises are to be valued, with a deduction in respect of such rates, as though the occupier paid the full amount: *Dodd*, app., *Bilston*, resps., L. R. 1 Q. B. 16; 6 B. & S. 903.

Deduction of the tithe rent-charge.

It is to be remembered that in ascertaining the rateable value of lands, a deduction is to be made in respect of the tithe rentcharge payable in respect of the land. This is varying annually in amount, but in practice no change can be made in the rateable value of the hereditaments in consequence of such variation.

It was held that the occupier of lands, subject under a local Act to the payment of a rent to the vicar in lieu of commuted tithes, free of rates and taxes, was not entitled to a deduction in respect of such rent: *Hackett*, app., *Long Bennington*, resp., 9 L. T. 769; 33 L. J. M. C. 137.

Minute of the Poor Law Commissioners as to the deduction for rates and taxes.

The Poor Law Commissioners, in a minute dated November 29, 1841, pointed out an erroneous course which was occasionally adopted in reference to the deductions to be made, and which led to injustice between the different subjects of assessment.

They said "It is desirable, with reference to every kind of rateable property, to determine how the deduction for rates and taxes is to be made. It appears that this deduction is sometimes made from the gross estimated rental. This practice is not apparently in accordance with the principle upon which the estimate is to be made; and it will cause injustice in its application to property in proportion as the amount of outgoings for repairs, renovation, or insurance is greater or less."

They proceeded to illustrate by an example the result of this course; and afterwards showed the result of a

different course, namely, the calculation of the net annual value, where the rates have been estimated upon the gross rental, lessened by the deduction for the repairs and insurance.

It appeared by the second mode the rateable value on buildings is increased: on land little alteration is effected, but on tithes it is diminished.

They concluded, "that the second case is that which is conformable with the Parochial Assessments Act. For as rates cannot lawfully be made on the gross estimated rental, it would seem necessarily to follow that the estimate should not make an allowance for deduction of rates, on the false assumption that such rates will be made on the gross estimated rental. Neither can the deductions for rates be made from the 'net annual value,' as defined by the Parochial Assessments Act; for that net annual value is the result to be obtained as the effect of deducting the estimated rates, and does not pre-exist as a sum from which this deduction can be made. It remains, as the only possible conclusion, that the sum from which the estimated rates and taxes are to be deducted, in order to arrive at the 'net annual value,' or 'rateable value,' is the gross estimated rental of the property, less the expense of repairs and renovation," which virtually included insurance.

In a late case, the Court of Queen's Bench decided that the rates and taxes which a company claimed to have deducted, were not to be estimated upon that

which was considered as the gross rental lessened by the various deductions claimed, but upon that only which was the net rateable value after the rates themselves had been deducted: *Reg.* v. *The Tyne Improvement Commissioners,* 6 L. T. (N. S.) 489; 32 L. J. M. C. 192.

The parochial and mileage valuation.

A matter of much importance here requires attention. The valuation is to be made upon the property situated in the parish, because the rate is to be assessed thereon. For the most part there is no difficulty in carrying out this rule, though sometimes there may be a dispute as to the boundary between two parishes, which must be settled as a question of fact between the respective parishes. But difficulties do arise in respect of certain properties, which directly or by their ramifications extend into several parishes. Such are railways, canals, docks, waterworks, or gasworks, which frequently extend into numerous parishes.

The principle of the law is, as far as possible, to ascertain the amount of occupation in each parish, and to value the same therein. Thus, the termini, stations, warehouses, engine-houses, and factories of a railway; the toll-houses, wharves, reservoirs, particular locks, and basins of canals; the sluices of artificial drainages; the gasometers, mains, engine-houses, and offices of gasworks, or the spring or head of water from which the water is drawn for supply by the water company, their reservoirs and forcing pumps, are usually fixed and established in particular parishes, so that the occupations of such portion of the properties can be separated and identified. They are to be valued accordingly in

Parochial and mileage valuation.

the particular parish or parishes where they are situated; and though the value of these parts of the general concern may be increased by reason of the connected parts which extend into other parishes, these latter parishes cannot bring such increase of value within their assessments. Thus, the value of a station in a parish is increased by the extension of the line of railway into several other parishes, whereby the traffic is increased, but those other parishes cannot impose any rate upon the station for their benefit, nor enhance the value of the part of the line which is situated in them by reason of such increase. Such increase in value is only to be estimated in the parish where the station exists.

Terminal charges, described in p. 91, above, are not, however, the subject of valuation in particular parishes, but are to be estimated in the value of the whole line: *Reg.* v. *Eastern Counties Railway Company, ubi supra.*

Again, certain portions of these works may be shown to produce their profit in particular parishes, being a part only of the whole extent traversed by them. Where it can be distinctly ascertained how much profit is earned in those parishes, independently of the aid from the residue, the value of the occupation in those parishes must be estimated for the assessment.

Thus, it has long been established in the rating of canals, that if it be shown that some portion of the profit is exclusively earned in one or two particular

parishes, the valuation in respect thereof is to be confined to such parish or parishes.

Parochial and mileage valuation.

So also, in a railway, a mileage division of the profits upon the whole line cannot be allowed as a correct mode of ascertaining the proportion belonging to each parish, unless every portion of the line be equally profitable. According to the strict theoretical rule of law, the amount earned in each parish, and the particular expenses incidental to the working of the railway occurring therein, must be ascertained, and the result will give the assessable value of the railway therein: *Reg.* v. *Midland Railway Company*, 4 N. S. C. 511; 15 Q. B. 313.

Again, where a series of docks and basins were situate in different parishes, for the use whereof duties were paid indiscriminately, it was held that the entire rateable value of the docks should be taken jointly, and be divided in proportion to the areas of the docks in the several parishes: *Reg.* v. *Hull Dock Company*, 16 Jur. 543; 21 L. J. R. M. C. 153.

But where, as in the case of the Mersey Docks, which are partly in the parish of Liverpool and partly in the township of Birkenhead, the earnings and outgoings of the two docks can be separately ascertained, though both are under one general management, the parochial, and not the average principle, must prevail: *Mersey Docks' Board* v. *Liverpool*, 37 J. P. 165.

In the case of waterworks there are two classes of property which produce the profit and constitute rate-

Parochial and mileage valuation.

able subjects. First, the apparatus for raising the water, the reservoirs, land, buildings, and fixtures required for the general purposes of the undertaking. Secondly, the mains and service-pipes, and conduits which carry the water through the streets, and serve for its delivery to the consumer. The former indirectly conduces to produce the rateable value in particular parishes, but the latter produces it directly. The first portion is, however, the subject of assessment in the particular parish or parishes where it is situated, and the amount of the rate thereon when ascertained is deducted from the rateable value of the waterworks when taken as a whole. The spring from which the water arises is in like manner assessed in the parish where it exists. Then as to the residue of the rateable property, two bases are capable of adoption, viz., either the net profits earned in each parish, which would be the best criterion, or the amount of the land occupied by the mains and service-pipes therein, which is to be measured by reference to the extent and capacity of those mains and pipes. The profits are measured by reference to the gross receipts in each parish, which generally depend upon the extent therein of the mains and pipes. *Reg.* v. *Mile End Old Town*, 3 N. S. C. 13; 11 Jur. 988; 10 Q. B. 208; 16 L. J. R. M. C. 184. But the value of the whole apparatus in all the parishes in which it is situated is not to be ascertained and then divided among them according to the quantity of land occupied by it in each parish, because, if so, though the value of the land might vary, the value of the apparatus would be the same in the different parishes: *Chelsea Waterworks Company*, apps., *Putney*, resp.,

6 Jur. (N.S.) 940; 29 L. J. R. M. C. 236; 3 E. & E. 108; 24 J. P. 486. Parochial and mileage valuation.

The amount of capital laid out in the particular parish is not to form the basis of the calculation, because that may not have been judiciously laid out, or may not produce a corresponding amount of profit: *Reg.* v. *Mile End Old Town, ubi supra.*

It has been considered that in valuing the parts of the works in the different parishes, an estimate might be made not only of the direct profits in the parishes respectively but also the indirect profits, namely, those which are earned in the one parish by reason of the apparatus in another. But this rule appears to be erroneous in cases of water and gasworks, as it has been shewn to be in the case of railways.

The buildings, plant, and mains erected in the parish where no receipts are earned, are, however, only to be assessed on their value as land and buildings, with fixtures and machinery, deriving some additional value from their capacity of being applied to such purposes as a water company, but not with reference to receipts in other parishes, except that they may be assumed to be sufficient to pay for all outgoings and profits on the capital of the company: *Reg.* v. *West Middlesex Waterworks Company,* 1 E. & E. 716; 28 L. J. M. C. 135. The same rule was held to apply to gasworks: *Sheffield United Gaslight Company* v. *Sheffield,* 4 B. & S. 135; 8 L. T. (N.S.) 692; 37 J. P. 429.

The case of the *Proprietors of the Birmingham Canal Navigation* v. *Birmingham,* 19 L. T. (N. S.) 311, may

Parochial and mileage valuation.

be referred to in regard to canals; but it is not easy to determine the point actually decided in that case from the report.

It may result, however, from the principle of this rule that the company might escape the rate wholly, or to a large extent because the rateable value of the apparatus in the several parishes estimated separately may be almost inappreciable, though in combination a great profit is gained.

But when there is no means of sub-dividing the gain or profit earned in the several parishes, the whole is to be taken together, and, the profit being uniform, the value in each parish will depend upon the extent of the occupation therein. Hence, the entire works must be measured, and the whole value of the occupation be divided rateably among the parishes in proportion to the extent of the occupation in each parish.

And practically there is so much difficulty in carrying the principle into operation as regards many canals and most railways, that in the cases of those properties the parochial scale is often abandoned, and the milcage system adopted in its place.

The difficulty of ascertaining the proper apportioned values in different parishes is stated distinctly by BLACKBURN, J., in *Guest* v. *East Dean,* L. R. 7 Q. B. 341; 41 L. J. M. C. 129; 26 L. T. (N. S.) 442; 36 J. P. 342, where he refers to the case of a spring of water, a main-pipe, and a supply, all in separate parishes, each by itself of no value, but the combination producing a

very large rent. In the case before him arose the question as to the rating of surface lands with buildings used for the purpose of working a metalliferous mine, such land and buildings being rateable, while the mine itself was exempt. The land would be of little value without the mine, and the mine would be of little value without the surface, but both together were of great value. The principle to be adopted is stated *ante*, p. 79. Parochial and mileage valuation.

Where a coal mine is worked in two parishes, the value of the separate portions must be ascertained as far as possible distinctly, and must be taken according to the extent of the works respectively; and though the pit and the shaft be in one only, the value is not to be taken to be wholly in that parish: *Rex* v. *Foleshill*, 2 A. & E. 593. In some parts of the mining districts a certain sum is assessed by way of tonnage upon the coal raised, and this sum is made to cover the value of the buildings and engines used for the purposes of the mine, there being no specific assessment upon the latter. This, if not strictly correct, is nevertheless so convenient that it is not unnecessarily to be disturbed. But it cannot be carried out when the mine and the works are not wholly in the same parish; because the property must be assessed in respect of each parish according to the extent of the occupation therein. Hence, the works must be assessed in the usual manner, and the coal according to the yield. See the remarks on the rating of collieries on p. 60. Mines extending into several parishes.

Some railways, and doubtless some other works, though not of sufficient importance to create any dis- Railways, main or trunk line

and branches.

cussion on this point, consist of trunk lines and branches,—that is, main lines, for which the original railway was designed, and branch lines which it has been subsequently deemed advisable to form. The rate of profit with reference to the cost and expenses of the separate parts, is seldom uniform on the whole. On some branches there may be great expense peculiar to them in the working; on others, the traffic being less, the profits may also be smaller than on the trunk. To the company it is generally, though not always immaterial whether the trunk and the branches be taken together, and one uniform valuation be taken for the whole, or whether they be severed and valued separately.

The latter course would be most consistent with the rule above stated with reference to the parochial charge, and to that the courts of law strongly lean. But it has been found impracticable always to adopt this course; and in one of the cases before the Court of Queen's Bench, it was held that if the branch be incorporated into the whole line, and worked as an undistinguished part, the valuation must be made with reference to the whole—viz., the trunk and branch, and cannot be confined to the latter: *Reg.* v. *The Great Western Railway Company*, 15 Q. B. 379, 1085.

Where there is, however, such a distinction and separation kept up between the trunk and the branch as to enable the value of the latter to be ascertained without reference to the former, the value of the two for the purposes of the assessment must be kept distinct: *Ib.* In assessing to the poor rate a part of a

branch line of railway passing through a parish, the fact that three other companies would be willing to pay what was equivalent to a large rent for it, is to be taken into account as an element in ascertaining the rent at which it might reasonably be expected to let from year to year: *Reg.* v. *London and North Western Railway Company*, L. R. 9 Q. B. 134; 43 L. J. M. C. 81; 29 L. T. (N.S.) 910. It is now established, as shown above, p. 94, that where the branch line is worked at a loss, it is not assessable. Railways.

It follows, however, from the general rule, that in the case of a canal the expenses of maintaining locks necessary for the whole canal are not to be charged to the parish wherein they are situated, but are to be thrown upon the whole line of the canal: *Reg.* v. *The Coventry Canal Company*, E. & E. 572; 28 L. J. M. C. 102; 23 J. P. 100. Canals.

It is proper to notice, as a further illustration of this principle, that a bridge, maintained by tolls, having its approaches and its two ends in different parishes, must be valued, in reference to the two parishes, in proportion to the extent of the bridge itself in each parish, whatever may be the relative extent of the respective approaches; and where the middle of the stream is the boundary of the parishes, the value of the bridge in each parish will be equal: *Reg.* v. *The Hammersmith Bridge Company*, 1 N. S. C. 424; 15 Q. B. 369; 13 J. P. 103; 18 L. J. M. C. 85. Bridges.

The practical rule which is generally applicable to this class of cases is thus laid down by the court in

Bridges and ferries.

the case last referred to :—" If the entirety of the works can be divided into two parts, the first directly producing the value, and the second indirectly conducing to such production, such division should be made. Then all expenses incidental to the second part, including the rates to which it may be liable, being deducted from the gross proceeds, and the net rateable value being ascertained, such value is to be apportioned among the districts to which the first part, viz., the part directly producing the value, is situate, in the ratio of the portion of that value produced in each district."

Where there were landing-places to a ferry across a tidal river or estuary, not situate in any parish, which were assessable, no estimate could be made of their value with reference to the width of the river, as the line of passage varied, and did not run in a straight line, and, moreover, could not be said to occupy any part of either parish: *Reg.* v. *North & South Shields Ferry Company*, 22 L. J. R. (N. S.) M. C. 9 ; 1 E. & B. 140; 17 J. P. 21.

The meaning of the proviso to this section, as to the relative liabilities of property.

Thus far, as to the substance of the enactment; but the proviso has caused much discussion. It was introduced to prevent the question, which was supposed to be raised by the decision in *Rex* v. *Joddrell*, 1 B. & Ad. 403, from being concluded by the terms of the statute. But it is so expressed that the Court of Queen's Bench, in *Reg.* v. *Capel*, 12 A. & E. 283 have stated that they do not understand its meaning or effect, and, in the decision of that case, held that it did not control the rule which the statute in the

previous part of the section had prescribed for the valuation of all hereditaments.

The point which was raised in *Reg.* v. *Capel,* as resulting from *Rex* v. *Joddrell,* was this, that in the assessment upon tithes a deduction should be made, with reference to the deduction which, it was contended, was always made in the assessment of land in regard to the profits of the farmer. It was urged that the tithe-owner was assessed upon the full value of his tithe; whereas, the occupiers of the lands and buildings being assessed upon the rent only, and not also upon the profits of their occupation, were not equally assessed as regarded him. Either, therefore, their assessments ought to have been raised, or an allowance ought to have been made to the tithe-owner. It does not except tithes.

The court were, however, of opinion that the tithe-owner, having been assessed expressly according to the terms of this statute, could not claim any other deduction than what had been made, and, as no objection had been made to the other persons assessed, on the ground of inequality, the rate was good. If this objection had been made, the question would then have arisen as to the proper valuation of the property occupied by such persons, but would not have affected the correctness of the valuation of the tithe for the assessment.'

It was made a subject of complaint that no deduction was made in the valuation of the tithe in respect of the tithe owner's expense in maintaining himself and procuring the clerical duties to be performed;

and it was urged that the farmer and other inhabitants were not assessed upon the profit they derived from the employment of their capital on the premises occupied. But it was answered that there was nothing at that time to prevent the tithe-owner from requiring those persons to be assessed upon their profit; and the mere wrongful omission to rate other property, could not give a right to the occupier of any particular property to have a deduction made in the valuation of his property, in respect of some cost or expense incurred by himself, not authorized by the statute to be deducted.

It will be seen above to what extent the Court of Queen's Bench has considered that allowances can and cannot be made in respect of the parson's personal labours, and that of his curate in discharge of the duties of his cure.

General statement of the principle of assessing tithes.

The principal of rating tithe is thus settled with reference to this Act. The amount of rentcharge is to be taken for the current year, as estimated by the official declaration of the corn averages. From this sum deduction must be made. (1.) For the expenses of collection by a reasonable per-centage. (2.) For the average annual amount of losses. (3.) For the average annual cost of legal proceedings for the recovery of the tithe rentcharges. (4.) For additional allowance in respect of a lessee's profit, if not included in the previous allowances. (5.) For the tenant's rates and taxes, payable out of the same (the land tax not being one, but the tenant's property tax being one, when the same is actually levied). (6.) For

the ecclesiastical dues, payable out of the benefice proportionately to the whole income. (7.) For the average annual cost of the repair of the chancel.

Land taken for the execution of works in progress.

Hitherto it has been assumed that the property to be rated must be and continue to be occupied, so as to be capable of producing profit. But land may be taken possession of for the execution of works, and for a time will be wholly unprofitable. Where this occurs in private enterprises, the parish will lose for a time the rate on the land. But as regards public enterprises the legislature have made a special provision in the 8 & 9 Vict. c. 18, s. 133, in the following words :—"If the promoters of the undertaking become possessed by virtue of this or the special Act, or any Act incorporated therewith, of any lands liable to be assessed to the poor's rate, they shall, from time to time, until the works shall be completed and assessed to such poor's rate, be liable to make good the deficiency in the several assessments for poor's rate, by reason of such lands having been taken or used for the purposes of the works, and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the special Act; and on demand of such deficiency, the promoters of the undertaking or their treasurer, shall pay all such deficiencies to the collector of the said assessment." Under this provision the promoters are not liable to be rated for the amount : *Corporation of London* v. *St. Andrew, Holborn*, L. R. 2 C. P. 574; 36 L. J. M. C. 95; 16 L. T. (N. S.) 665, but they are liable to a civil action at the

suit of the parish officer: *Wheeler* v. *Metropolitan Board of Works*, 20 L. T. 984: L. R. 4 Exch. 303.

Some doubts have arisen as to what constitutes "the completion of the works" in cases of railways. Where a railway runs through several parishes and is completed in one so as to be available for traffic, but the whole scheme of the railway is not completed, it is nevertheless not so far completed as to render the statute inapplicable: *Reg.* v. *Metropolitan District Railway Company*, L. R. 6 Q. B. 698; 40 L. J. M. C. 113; *Whitchurch* v. *East London Railway Company*, 26 L. T. 635. The decision of the Exchequer Chamber, overruling that of the Court of Exchequer, in this last case established the rule to be as stated above.

Stock-in-trade continued rateable, notwithstanding this Act.

Soon after the passing of the statute now under comment it was contended, that the use of the word hereditament, and the whole context of the Act, showed that the rating of stock-in-trade which prevailed in some parts of England was determined by it. The Court of Queen's Bench, in *Reg* v. *Lunsdaine*, 10 A. & E. 157, decided the contrary. But the difficulty and impolicy of assessing this kind of property was shown in several documents issued by the Poor Law Commissioners, and by the evidence of the late Sir George Cornewall Lewis, Bart., given before the Committee of the House of Lords on Parochial Assessments which sat in 1850. Hence the legislature, by a temporary Act (3 & 4 Vict. c. 89), continued annually, and last by the 44 & 45 Vict. c. 70, have suspended the power of assessing it until the 31st day of December, 1882.

The enactment of the 3 & 4 Vict. c. 89, is as follows:— Stock-in-trade.

An Act to exempt, until the Thirty-first day of December, One thousand eight hundred and forty-one, inhabitants of parishes, townships, and villages from liability to be rated as such, in respect of stock-in-trade or other property, to the relief of the poor.

[10th August, 1840.]

"Whereas by an Act passed in the forty-third year of the reign of Queen Elizabeth, intituled 'An Act for the Relief of the Poor,' it was amongst other things provided that the overseers of every parish should raise, by taxation of every inhabitant, parson, vicar, and other, and of every occupier of lands, houses, tithes impropriate, propriations of tithes, coal mines, or saleable underwoods, in the said parish, in such competent sum or sums of money as they shall think fit, a convenient stock of necessary ware and stuff to set the poor on work, and also competent sums of money for and towards the relief of the poor not able to work, and also for the putting out of poor children to be apprentices, to be gathered out of the same parish according to the ability of the same: And whereas by another Act passed in the session of parliament holden in the thirteenth and fourteenth years of the reign of King Charles the Second, intituled 'An Act for the better Relief of the Poor of this Kingdom,' the provisions of the said Act of Elizabeth were extended to certain townships and villages: And whereas by reason of the provisions of the said Acts, it has been held that inhabitants of parishes, townships, and villages, as such inhabitants, 43 Eliz. c. 2. 13 & 14 Car. 2, c. 12.

are liable in respect of their ability derived from the profits of stock-in-trade and of other property, to be taxed for and towards the relief of the poor; and it is expedient to repeal the liability of inhabitants, as such, to be taxed:" Be it therefore enacted, that from and after the passing of this Act it shall not be lawful for the overseers of any parish, township, or village, to tax any inhabitant thereof, as such inhabitant in respect of his ability derived from the profits of stock-in-trade or any other property, for or towards the relief of the poor.

Stock-in trade not to be rated.

"Provided always, That nothing in this Act contained shall in anywise affect the liability of any parson or vicar, or of any occupier of lands, houses, tithes impropriate, propriations of tithes, coal mines, or saleable underwoods, to be taxed under the provisions of the said Acts for or towards the relief of the poor.

2. "And be it enacted, that this Act shall be in force till the 31st day of December, in the year of our Lord, 1841, and that from the said 31st day of December this Act and all the provisions hereinbefore contained shall absolutely cease and be of no effect."

Property exempt from rateability.

The Parochial Assessment Act deals only with property which is rateable, and in the earlier editions of this work the commentary was confined to remarks upon such property. But it was considered in the last edition that it would be convenient to explain briefly what property is not rateable, being that which indeed is excluded from the operation of the statute.

Now, to render property rateable to the poor rate under the Act of 43 Eliz. c. 2, there must be an occupier, and the occupation must be of such a nature as to produce, or be capable of producing, profit. It was also considered, as the result of a long series of decisions, that the nature of the occupation should be such as the law would hold to be beneficial. This word does not appear in the above statute of Elizabeth, but it is found in the statute 4 & 5 Vict. c. 48, s. 2 (now repealed by 39 & 40 Vict. c. 61, s. 30). By beneficial occupation for the purposes of the law of rating was meant an occupation from which the occupier derived either a pecuniary profit or some personal advantage or convenience; and where this was negatived, there was no beneficial occupation. See Report of the Committee of the House of Commons on Exemptions from Rates in 1858.

Where there is no beneficial occupation.

This personal advantage did not necessarily import a gain to the person who was to be assessed, but a gain must have resulted to some definite person.

The proper construction of the statute of Elizabeth in this respect has, however, been laid down by the House of Lords in a different manner, so that the principle of beneficial occupation as a necessary requisite to the liability to assessment has been overruled, and must be abandoned: *Jones* v. *The Mersey Docks Company; The Mersey Docks* v. *Cameron,* 35 L. J. M. C. 1; 20 C. B. (N.S.) 56; *Commissioners of Leith Harbour,* apps., *Inspector of Poor,* resp., L. R. 1 Sc. App. 17.

The exemptions, therefore, from the liability to local rates, which arise under the existing law, may be

Two classes of exempted property.

divided into two classes:—1. Exemptions created by statute. 2. Exemptions on account of the prerogative of the Crown, and of the government of the country.

Churches and chapels.

Literary and scientific societies.

The most important exemptions of the first class are those established by the 3 & 4 Will. 4, c. 30 (see Appendix), which exempts all churches, chapels, and other places of religious worship from poor rate, and by the 6 & 7 Vict. c. 36, which exempts lands and buildings occupied by scientific or literary societies from poor and other local rates. Special exemption is made in respect of Sunday and ragged schools by the 32 & 33 Vict. c. 40 (as to which see *post*, p. 143). There are likewise other statutory exemptions for turnpike tolls and toll-houses and for certain lighthouses, vested in the Trinity House Commissioners.

The exemption of the societies above referred to is modified by various provisions which will be found in the statute.

Property held for public purposes.

The second class of exemptions arise from the application of the legal rule which prevents the King or the Crown from being liable to pay rates and taxes, where not expressly named, and this rule comprehends all property held for the general purposes of the government of the country. (See the judgment of the House of Lords in the case of the Mersey Docks, above cited.) Thus, all lands and buildings in the personal occupation of the Sovereign are exempt from local rates, and this exemption extends not only to the royal palaces, but also to the royal parks and pleasure grounds and farms.

But the exemption does not exist in these places when the occupation is not that of the Sovereign. Therefore, the persons who occupy apartments at Hampton Court by permission of the Sovereign, are liable to the assessment: *Reg.* v. *Lady E. Ponsonby*, 3 Q. B. 14; 11 L. J. M. C. 65. And the ranger of a royal park is rateable in respect of any profit which he makes out of the enclosed and cultivated part: *Bute, Earl of*, v. *Grindall*, 1 T. R. 338. By the Victoria Local Government Act, 1874, s. 253: "All land shall be rateable property except land the property of Her Majesty which is unoccupied or used for public purposes;" and on appeal from the Supreme Court of the colony of Victoria, the judicial committee of the Privy Council held, reversing the judgment of the court below, that land used as a racecourse, under a demise from the Crown to the Victoria Racing Club for 99 years at a peppercorn rentcharge in trust for the club and for the purposes of the Victoria Racing Club Act, 1871, was rateable, as the land was not within the exemption, not being used solely for public purposes without any beneficial occupation by individuals: *Essendon, Mayor, &c., of* v. *Blackwood*, 36 L. T. (N.S.) 625; L. R. 2 P. C. 547; 42 J. P. 180. Public purposes.

Again, all lands and buildings belonging to the Crown, and occupied for a national purpose, such as forts, fortifications, dockyards, arsenals, barracks, naval and military storehouses (see as to the Militia, 17 & 18 Vict. c. 105, s. 2, and as to the Volunteers, 26 & 27 Vict. c. 65, s. 26), and hospitals, guard-houses, workshops and factories for artizans employed in naval and Government property.

military works, military colleges, artillery and parade grounds, government prisons, buildings used for the business of public departments, custom houses and post-offices (*Reg.* v. *Smith*, 26 L. J. M. C. 105; 7 E. & B. 483), are for this reason exempt. So also are official residences where they are necessary for the discharge of the duties of the public officer. See the above cited report of the House of Commons. Government museums are also exempt: *De la Beche* v. *St. James, Westminster*, 4 E. & B. 385. So also the Royal Academy, when held at the National Gallery, was adjudged to be exempt on this ground: *Reg.* v. *Sir M. A. Shee*, 4 A. & E. 2. But an industrial school certified under 29 & 30 Vict. c. 118, s. 7, and to which the treasury contributes under sect. 25, is liable to be rated to the relief of the poor: *Reg.* v. *West Derby*, 32 L. T. (N.S.) 400; W. N. 1875, p. 93; L. R. 10 Q. B. 283; 44 L. J. M. C. 98.

Universities. The public universities are not exempt as royal or national property. (See as to the University of Edinburgh, *Greig* v. *The University of Edinburgh*, L. R. 1 H. L. (Sc.) 348.)

County and municipal property. Buildings and lands occupied by municipal or other public bodies for such public purposes, as county gaols (now Her Majesty's prisons), reformatories, judges' lodgings, court-houses, and police-stations are within the exemption, as are also public roads and bridges: *Reg.* v. *St. Martin's, Leicester*; *Reg.* v. *Castle View*, L. R. 2 Q. B. 493; *Reg.* v. *Justices of Lancashire*, 27 L. J. M. C. 305.

Where profit is made from the use of certain premises within the above description for purposes other than those of a national character, they are *pro tanto* liable to assessment: *Lancashire JJ.* v. *Cheetham*, L. R. 3 Q. B. 14; 37 L. J. M. C. 12; 31 J. P. 739; 8 B. & S. 548.

Corporation property.

When the principle of exemption on the ground of public purposes prevailed, municipal property which was appropriated to public purposes was held not to be rateable. By express statute that decision was qualified, and by the 4 & 5 Vict. c. 48, the property of the borough was rendered rateable.

The statute, however, contained a proviso that where the property is in a parish situate wholly within the borough, and in which the poor are relieved by one entire poor rate, or in which borough the poor are there relieved by one entire poor rate, the exemption was to continue as if the Act had not passed. This was a positive enactment, and created an exemption in all parishes falling within the description, notwithstanding the overruling of the principle of beneficial occupation, and the establishment of union chargeability: *Reg.* v. *Oldham*, L. R. 3 Q. B. 474; 37 L. J. M. C. 169; but, as already shown, *ante*, p. 137, this exemption was repealed by 39 & 40 Vict. c. 61, s. 30.

Property occupied out of the district.

While the doctrine of beneficial occupation prevailed it was nevertheless held that property used for the benefit of a limited district only was rateable, if it were situated either out of the district, or in a parish which

formed part of that district, as in the case of a workhouse situated out of the parish for which it is required, or in one of the parishes of the union for which it is provided: *Guardians of the Poor of Bristol* v. *Wait*, 5 A. & E. 1; *Reg.* v. *Guardians of Wallingford Union*, 10 A. & E. 259; or of waterworks in a parish which supply water for the use of a town or particular properties situated in another parish: *Reg.* v. *Longwood*, 13 Q. B. 116; *Reg.* v. *Kentmere*, 17 Q. B. 551; *Reg.* v. *Overseers of Manchester*, 17 Q. B. 859; *Mayor of Liverpool* v. *Overseers of West Derby*, 6 E. & B. 704; or of land hired by a gaoler for the employment of convicts beyond the precincts of the prison: *Gambier* v. *Overseers of Lydford*, 3 E. & B. 346; or of land occupied by a local board of health in a parish partly out of the district: *Reg.* v. *Cooper*, 4 E. & B. 29. But as the general doctrine of beneficial occupation has been overruled, these cases have ceased to be of importance.

Charitable purposes.

In like manner property held and occupied purely for purposes of charity, such as public hospitals or reformatories, was held to be exempt, inasmuch as no beneficial occupation or emolument resulted from them in any personal or private respect to the managers or governors thereof, or to any other persons having any fixed occupation: *Reg.* v. *St. George, Southwark*, 10 Q. B. 852. So also the premises occupied by missionary societies for the deposit of their stock of publications were exempt: *Reg.* v. *Wilson*, 12 A. & E. 94. These exemptions now fail, as the ground of the exemption has been set aside as unfounded: *Trustees of Ilkley Hospital* v. *Ilkley Overseers*; *Reg.* v. *The Trustees of the*

British Orphan Asylum, 41st vol. of L. T. page 42. So also, in the case of St. Thomas's Hospital which was founded by charter of Edward VI., and lands were given, and the funds arising from the property vested for the purposes of the charter in the mayor and corporation of London. The charter directed the appointment and payment of the officers necessary for such an establishment, and directed that the residue of the revenues should be spent for "the use and maintenance of the poor, sick, and infirm folk of the said hospital." It was held by the House of Lords that the rule laid down in the cases of *The Mersey Docks* v. *Cameron,* 11 H. L. Ca. 443 (vol. 1., pp. 33, 34), and *Greig* v. *University of Edinburgh,* L. R. 1 H. L. (Sc.) 348 (vol. 1., p. 22), applied, and that St. Thomas' Hospital was liable to be rated to the poor rate: *London, Mayor of,* v. *Stratton,* L. R. 7 E. & I. App. 477; 40 J. P. 244; 45 L. J. M. C. 23. See also 30 L. T. (N.S.) 37, in error from the Queen's Bench.

Schools.

The trustees of schools for poor children, where profit was derived from the scholars, or from any occupation of the building, were indeed held, before the decision in the House of Lords, liable to be assessed: *Reg.* v. *Sterry,* 12 A. & E. 84: *Reg.* v. *Governors of Licensed Victuallers' Society,* 1 E. B. & S. 71; 4 L. T. (N. S.) 241; 30 L. J. M. C. 131; *Laughlin* v. *Overseers of Saffron Hill,* 12 L. T. (N.S.) 542.

But a special provision has been since made in respect of Sunday and ragged schools. By the 32 & 33 Vict. c. 40, the authorities who can impose or levy rates may exempt such buildings from the rate. They are

authorised but are not compelled to exempt, and may exercise a discretion: *Bell* v. *Crane*, 29 L. T. (N.S.) 207; 42 L. J. M. C. 122; L. R. 8 Q. B. 481. See Appendix.

Alms-houses.

Almshouses, in like manner, had been held not exempt, so that the almsmen who occupy them are rateable, if the trustees do not prefer to have the assessment laid in their names: *Rex* v. *Green*, 9 B. & C. 203.

Occupation in excess of official necessity.

But in all the establishments which are still exempt, if there be an occupation by any officer, assistant, or servant, beyond that which is reasonably required for the discharge of his duties in such office or service, his occupation is not that of the Crown or government, but becomes so far beneficial to him as to render him liable to be assessed: *Reg.* v. *Gambier*, 3 E. & B. 346; *Reg.* v. *Stewart*, 27 L. J. R. M. C. 81; *Reg* v. *Breton*, 8 E. & B. 363; *Reg.* v. *Bridgehouse*, 20 L. T. 658.

Exemption of certain canal and similar property.

In conclusion, it must be observed, that the legislature in several private or local Acts, whereby canal or navigation or dock trustees have been empowered to make canals or docks, or to improve the navigation of public rivers, used such language in providing for the application of the receipts of the trustees, as induced the courts to hold that, by reason of that application extending only to objects of a public nature, there was an exemption from local rates: *Rex* v. *Salter's Load Sluice Navigation*, 4 T. R. 730; *Rex* v. *Liverpool*, 7 B. & C. 61; *Mersey Docks Company* v. *Jones*, 30 L. J. R. M. C. 239; 5 L. T. (N.S.) 184; S. C. *Mersey Docks* v. *Cameron*, 9 C. B. (N.S.) 812.

The interpretation of the court in these cases had been much questioned of late, and the exemption had been rejected wherever the court could find ground for distinguishing the case from those decisions; *Reg.* v. *Trustees of Birkenhead Docks*, 2 E. & B. 148; *Reg.* v. *Chirton*, E. & E. 516; 28 L. J. R. M. C. 131.

As already noticed, this doctrine, upon which those cases were decided, had been overruled, and unless there be an express exemption in the Act, the court cannot now hold the exemption to exist.

Partial exemptions.

Thus far of general exemptions. But it is right to state that some statutes have created a partial exemption only, as by providing that lands taken for certain purposes, and afterwards built upon or applied to purposes of a public character, shall only continue rateable according to the state of the land when so appropriated, in like proportion as agricultural land in the neighbourhood may continue to be valued at. Some instances exist of statutory exemptions, as in the case of Serjeant's Inn, Chancery Lane, the result of certain compromises, as where a gross sum is paid in respect of a district, and the whole of the otherwise rateable property therein is exempt: *Thorpe* v. *Adams*, 40 L. J. M. C. 52; L. R. 6 C. P. 125; 23 L. T. (N.S.) 810. Many of the cases where particular works or property have been so exempted, depend upon the express wording of the local Acts under which they were established, and the cases cannot here be introduced. But the Lunatic Asylums Act, 16 & 17 Vict. c. 97, s. 35, contains such an exemption in respect of land taken for the sites of

those asylums. The 18 & 19 Vict. c. 128, s. 15, as already noticed, contains a similar one in respect of a burial ground, provided in a parish for the use and benefit of another parish. By the 23 & 24 Vict. c. 112, s. 33, lands vested in the Secretary of State for the defence of the realm previously liable and charged with poor rates, are to continue chargeable therewith, but shall not be assessed at a higher value than at the time of such vesting.

And the telegraphs purchased by the Government under the 31 & 32 Vict. c. 110, are required, by s. 22, to be assessed in the like manner and to the like extent. But the rates made upon the basis of the approved valuation lists cannot be enforced against the post-master-general: *Reg.* v. *Postmaster-General*, 37 J. P. 196; 28 L. T. (N.S.) 337.

COMMENTARY ON THE SECOND SECTION.

The form in the schedule will be found to correspond very nearly with the form of the rate book prescribed by the Poor Law Commissioners at the commencement of their labours, and which is printed in their first annual report.

In that form they introduced two columns for the number of votes to be given to the occupiers and the number for the owners. This was done to afford a means of complying with the provisions of the Poor Law Amendment Act of 1834, 4 & 5 Will. 4, c. 76, and the Vestries Act, 58 Geo. 3, c. 69, which gave the

plurality of votes in proportion to the amount of rateable property. In sect. 40 of the 4 & 5 Will. 4, c. 76, it is provided that when an owner made a claim to vote, he should send a description of the property in respect of which he claimed to vote, and some other particulars, and the overseers were required to enter in the rate book, or in some other book, the names and addresses of such owners. Hence the column in the rate book was provided for such owners. From the statements the overseers could learn who were owners, but otherwise they could not have necessarily any knowledge on the subject.

In lapse of time the origin and intention of this column have been lost, and now the overseers fill it up upon such information as can be cursorily supplied, or with such knowledge as they may possess.

The duty of justices to allow the rate is still ministerial only.

It was considered that after prescribing the precise mode in which the estimate of the rateable value should be made, and the form in which the assessment should be made out, the legislature intended that no rate should be valid which deviated from that form, and that therefore the justices, who are required to allow poor rates, would not be justified in allowing any rate which deviated from the form so prescribed. But the Court of Queen's Bench decided that such is not the effect of the statute; that if the parish officers do not sign the declaration which is at the foot of the rate, by which they vouch to the correctness of the rate, the rate is void, and the justices may refuse to allow it; but that if there be merely some defect of

form, or if it be in the opinion of the justices inaccurate in respect to the valuation of the property, they nevertheless have no discretion, and cannot refuse to allow it: *Reg.* v. *Earl of Yarborough,* 12 A. & E. 416.

It made no difference that a valuation of the parish had been made under the power given by the next clause of this Act, and that the overseers had departed from that valuation. The justices could not on this ground refuse to allow the rate [*Ibid.*], for the allowance of a poor rate by the justices is purely a ministerial act, and if it be good on the face of it, they cannot inquire into its validity: *Reg.* v. *Lord Godolphin,* 13 L. J. M. C. 57.

The declaration prescribed by this section must be made, otherwise the rate will not be valid, but the declaration need not have been in the precise words set out in the schedule: *Painter* v. *Reg.,* 10 Q. B. 908.

This has been altered by the provision of the Union Assessment Committee Act, 1862, which requires a new declaration to be made, and renders the rate void if it departs from the valuation approved by the committee. See the Appendix.

Meaning of the proviso to this section.

The proviso to this clause appears to have been misplaced; it should have formed a separate clause, or have been appended to the first clause. It left untouched the compositions for assessments, which exist under the 59 Geo. 3, c. 12, s. 19, and under many

local Acts, but required the gross estimated rental to be entered in the proper column, though, as already observed, it did not explain what that rental signifies.

The clause requires the particulars referred to to be "in addition to any other particular which the form of making out such rate shall require to be set forth." It does not appear that there was any requisition on this subject beyond that which had been set forth by the Poor Law Commissioners, and as that power is here recognized, those Commissioners in their general order of accounts, and the Poor Law Board afterwards, provided not only columns for the collection, but also for cases where the composition is paid by the owners.

Provisions of the 59 Geo. 3, c. 12, as to compositions by landlords.

The general provision contained in the 59 Geo. 3, c. 12, s. 19, as to compounding for rates, was confined to cases where the tenements are let at between 6*l.* and 20*l.*, and for less terms than a year; and the section has no application to houses let at a rent exceeding 20*l.* or less than 6*l.* a year: *Iles, app., Assessment Committee West Ham Union, resps.*, W. N. 1881, p. 136; L. J. Rep. M. C. 1882. In many parishes there were local Acts which extended the amount of the rent at which compositions might be made, and omitted the low limit; and the statute 13 & 14 Vict. c. 99, introduced a mode by which any parish could rate the owners of property not exceeding the yearly rateable value of 6*l.*, instead of the occupiers. But that statute, and all the local Acts which contained these provisions, have been repealed by the 32 & 33 Vict. c. 41, s. 6, with reference to the poor rate.

The 59 Geo. 3, c. 12, s. 19, was in effect repealed by the 30 & 31 Vict. c. 102, s. 7, in respect of parishes situated wholly or partly within a parliamentary borough, but otherwise it has been left unrepealed. It is, however, not extensively in force elsewhere.

COMMENTARY ON THE THIRD SECTION.

Overseers could not previously cause a parish to be valued.

Previous to the passing of this Act, it does not appear that the overseers could have put the parish to the expense of a map or valuation of the rateable property therein. The inhabitants might, indeed, have appointed a person under the 59 Geo. 3, c. 12, s. 7, as an assistant overseer, and assigned to him the duty of valuing the parish and making the assessment. This, however, was an artificial process, which was probably never adopted before this Act was passed.

A mode often adopted formerly was for the vestry to appoint members to constitute a committee to revise the rate and the valuation upon which it was formed, and to report the result to the vestry. The overseers were expected to adopt this report, though the law does not allow the power given to them by the statute of Elizabeth to make the assessment to be taken away from them by any such proceeding of the vestry. This proceeding was considered favourably by the Poor Law Commissioners in their letter of 19th Sept., 1837, 4th An. Rep., p. 164. But experience showed that such a committee seldom produced a satisfactory result

to the parish. It was difficult to insure strict impartiality in its proceedings, or at least to secure perfect confidence therein, and the Poor Law Board discouraged such course of action. They could not prevent the formation of the committee, but such committee had no authority to charge the poor rate with any expenses; the board could render no assistance to enable such expenses to be so paid, and neither the overseers nor the ratepayers were in any way bound by the valuation made by such committee.

The new Act for the appointment of the assessment committee of the union nowhere recognizes or authorizes the appointment of a parish committee.

Valuation to be obtained by order of the Poor Law Board under this Act.

The present section, however, gave a mode of proceeding so as to secure a correct valuation of any parish, and, where necessary, an accurate map. But it could only be carried into effect by an order of the Poor Law Board, and as their order must have directed the guardians to appoint the valuer, it is manifest that the clause could only operate where a parish was in a union, or was under the management of a board of guardians. It will appear hereafter that the union here mentioned was not confined to those formed under the Poor Law Amendment Act of 1834.

It is right to observe that some doubt has been expressed as to the real meaning of the statute in this clause. Is has been intimated by the Court of Queen's Bench that perhaps it signifies that either the guar-

dians of the union or the officers of the particular parish may apply, and that the order of the Poor Law Board should be addressed to the guardians or the officers according to their application. But the court did not decide this point (see *Reg.* v. *The Churchwardens and Overseers of Bangor*, 10 Q. B. 91; 16 L. J. M. C. 58; 11 J. P. 260); and in the uncertainty as to the proper construction of the Act, the Poor Law Board continued the previous practice, and issued their order to the guardians

It was necessary that the churchwardens and overseers should declare that a new valuation was necessary to enable a fair and correct estimate of the rateable property in the parish to be made. But since the Union Assessment Committee Act has been passed and has come into operation, the Poor Law Board have determined that the churchwardens and overseers cannot make this declaration correctly, as they are bound to follow the last approved valuation list in making out the poor rate. Hence the board declined to issue orders under this section, and the Local Goverment Board hold the same rule. On reference to that Act and the amending statute, it will be seen that adequate means are now provided for obtaining a valuation of the rateable property of every parish and, where necessary, a map.

The power of the board to order a map.

The board, at their discretion, could have issued the order which was to direct the guardians to procure the valuation to be made. They had also a power to require a map or plan to be made, if they thought fit, and upon

such a scale as they might deem proper, They could in no other way prescribe the form of the valuation or of the map; and this form in strictness was to be settled by the guardians.

The guardians are to appoint the surveyor.

Neither the parish officers nor the ratepayers could, under this clause, insist upon appointing the surveyor, or prescribing the mode in which the map and valuation were to be made, or the terms upon which it was to be made. The Union Assessment Committee Acts, 25 & 26 Vict. c. 103, 27 & 28 Vict. c. 39, make some difference in this respect.

The contract must have been executed by the affixing of the common seal of the guardians, as this was not a contract by which they could be held legally responsible, except it be under seal: *Paine* v. *The Guardians of the Strand Union*, 8 Q. B. 326. And as they would not have been bound except by a contract under seal, so also the surveyor would not have been liable upon a mere verbal contract or engagement, even in writing, if it were without seal.

The commissioners proposed form of contract.

It is obvious that the commissioners, having the opportunity of communicating with all the unions and parishes in the kingdom, had the best means of ascertaining the form of contract most convenient for the guardians to enter into, for the purpose of carrying out the objects of the parties; and, consequently, they framed forms of contracts, which they usually recommended for adoption; and as this form, and the considerations which arise out of it, appear to be very applicable

to the guardians, who now make contracts under the Union Assessment Committee Acts for the same purpose, it has been deemed advisable to retain the remarks which were made in relation to the contract in former editions.

Almost simultaneously with the earliest of the valuations made under this Act, the commutation of tithes under the statute 6 & 7 Will. 4, c. 71, took place in different parishes; and it became an object with the Poor Law Commissioners to make one survey and map answer the purposes of the commutation of the tithes and of the parochial assessment.

Scale of the map.

They therefore ascertained the general requisites of the tithe commissioners, and transmitted copies of those requisites to the various boards of guardians. The scale prescribed by those commissioners for the map, viz., three chains to an inch, in rural parishes, was almost universally adopted, and no deviation allowed except under special circumstances; though in towns a larger scale was generally required. The form of contract recommended by the board was so framed as to secure a map for the parish, such as the tithes commissioners would confirm.

The statute which authorizes the procuring of a plan appears to signify a plan of the whole parish. But it sometimes happened that the parish was so diversified in its character as to require different scales for the different parts. In such a case the board considered that the whole parish must be mapped upon the smaller

uniform scale, while a larger scale might be used for parts of the parish mapped in other supplemental plans.

Where a parish was so large that the map of the whole would have been inconvenient, it was suggested that the parish should be divided and the separate portions shown on distinct plans. But the map once made, was required never to be folded. Generally, they recommended the map to be well varnished, mounted, and framed.

Reasons for the approval of the board to the map.

As the guardians might not have been competent to determine the actual geometrical accuracy of the map, the commissioners recommended in the form of their contract that the contract should be approved of by them before it was paid for. They thus relieved the guardians of some part of their responsibility, inasmuch as they undertook an examination of the scientific part of the performance.

Course adopted by the board.

To enable them to express their opinion upon the sufficiency of the map, they sought the assistance of the tithe commissioners, who had in their service scientific and experienced surveyors, competent to pronounce a judgment, after due examination of the work, and whose report was formerly required to determine the adoption of the map, or its duplicate, when submitted to them by the tithe-owner and landowners.*

The requisites of the tithe commissioners were also expressed in the contract recommended by the Poor Law

Commissioners, which is printed in the Appendix to this work, and may be available for the guidance of the guardians, when a map is now made under their sole direction.

The approval of the board does not conclude the guardians.

When the tithe commissioners approved of the map, the Poor Law Board gave their approval, and the guardians became liable to pay for it. But as there might be errors in the map, only to be discovered by local inspection and knowledge, the approval of the board by no means concluded the guardians; and if such errors were discovered before the map was paid for they might still have rejected it, unless they had, by unreasonable delay, rendered themselves responsible for it.

The Poor Law Commissioners issued elaborate minutes as to the course to be adopted in reference to the testing of the maps made under their order. But as the Local Government Board do not undertake the service of approving maps which are made under a different statute, namely, the 27 & 28 Vict. c. 39, s. 10, though with the sanction of their order, these regulations are here omitted.

Survey always required.

It may be well to observe that the statute provides for a survey and valuation, with or without a map. The Poor Law Board, when a map was not required, nevertheless ordered a survey and valuation to be made. This was strictly according to the language of the statute, and only imported that there was to be such a survey as would be requisite to enable the surveyor to

value the property, but not such as would be necessary for the making of a map.

The Poor Law Board's approval of the valuation.

In regard to the valuation, all that the board did was to examine the form in which it had been drawn up, and if that were conformable to the terms of the contract which is in furtherance of the exigencies of the statute, they were accustomed to express their approval of the valuation, stating at the same time that they did not testify to its accuracy in any other respect than as regarded its form, and that the correctness of the valuation could only be ascertained by local knowledge.

At the same time, if the document in itself showed that the principles of the law in regard to the valuation of property for the poor rate had in any respect been neglected or violated by the valuer, or if it showed any defect or omission or any erroneous entry, they declined to approve, and required the valuation to be corrected, or the questionable matter explained.

As to the minuteness of the details.

A subject of difficulty arose in the valuation of property in many parishes in regard to the minuteness of the details. A perfect valuation would set forth the value of every specific portion of land, and every building, so that the value of every field, acre, and building might be shown. But to obtain such a valuation, more expense would generally be incurred than the occasion would warrant. Hence, the commissioners recommended that the valuation should be made of every hereditament which was separately rateable at the time of the valuation, and such rateability was generally assumed

from the fact of the holding being at the time separately rated. But it is obvious that property which happened not to be rated because it might be untenanted or unoccupied was not properly omitted. Neither could property occupied by paupers or poor persons whose rates are frequently excused by the justices be properly left out.

After a time the holding might become divided and the property might form the subject of separate assessments. The contract recommended by the commissioners provided for this contingency, as it was therein stipulated by the valuer that he would in such cases supply the valuation for the separate parts at a moderate remuneration. If this could not be readily procured, or if the overseers did not feel it necessary to incur the expense, they might require the several occupiers of that which had been held by one person to adjust between themselves the respective proportion of the value which had been assigned to the whole; and if such adjustment could not be effected, they might exercise their own judgment as to the value of the separate holdings.

In the Union Assessment Committee Act, 25 & 26 Vict. c. 103, s. 28, where by reason of any alteration in the occupation of any property included in the valuation list, such property has become liable to be rated in parts not mentioned in such list as rateable hereditaments, and separately rated therein, such parts may, where no supplemental list has been approved, be rated at fair apportioned parts of the annual rateable value.

Meaning of separate rateability.

It should be noticed that in determining the separate rateability of property it was not expedient to consider whether it was all held under one landlord or not. The nature of the property, and the usual course of dealing with it, in regard to the assessment by the overseers, was to be considered with reference to this matter. One landlord may let two houses to another person, but it would generally be found that the houses are separately assessed to the poor rate; on the other hand, a dwelling-house and garden would be the subject of one assessment, though the house were rented of one person and the garden of another.

Requisites of the 27 & 28 Vict. c. 39, s. 4 as to valuations.

It may be well to notice that where a valuation is made under the recent Acts, the 27 & 28 Vict. c. 39, s. 4, requires the valuer to make his valuation in writing, and to show the particulars of the several hereditaments comprised therein, and the amounts at which he has valued the same respectively, and to sign the same.

The guardians are to determine the correctness of the valuation.

The guardians were bound to procure for the parish a valuation. They were to contract with the surveyor for such a valuation, and the surveyor could not claim a remuneration from them for anything but a correct valuation. It was, however, for the guardians to determine whether the valuation which was supplied was or was not a correct valuation. They might, and usually did, consult the parish officers and the vestry, but were not bound to reject it, although the parish officers and the vestry reported against the correctness. It not unfrequently happened that the very accuracy of the valuation dissatisfied influential members of the parish;

and because some property was valued at a higher amount than during past years, it was alleged that the valuation was incorrect.

The guardians, therefore, were required cautiously to examine the grounds of complaint, and scrutinize the objections; but when assured that the objections were well founded were required to reject the valuation, if the surveyor was unable to remove them. The guardians were advised, however, that they had contracted with the surveyor, and were liable to him for the payment unless they could prove that the valuation was substantially incorrect.

Promptness of decision requisite.

One point was necessary to be attended to by the guardians: they were required to be prompt in their decision; they were entitled to make all reasonable inquiries as to the accuracy of the document, but they were not justified in retaining it for a longer time than such inquries would fairly occupy. Wherever the approval of the Poor Law Board was requisite it was usually stipulated by the surveyor that the guardians should forward the valuation or map to the board within a specified time, and they were liable for a breach of this covenant to the surveyor in damages; but in the contracts now entered into this stipulation is omitted, as that board have not undertaken the examination of the valuations or maps now made.

The valuation or map not to be used until finally accepted.

The guardians were advised not only to be prompt in deciding, but on no account to allow the valuation or map to be used by themselves, or by the parish offi-

cers, unless it were finally accepted. By such use the guardians concluded themselves, so that they would be held in law to have accepted it, and if indeed the contract price could not be recovered from them, they would nevertheless be bound to pay such a sum as it might be found by a jury to be reasonably worth. If it were substantially and extensively incorrect, such a sum, it was considered, would probably have been small, but the adjustment could only be effected after litigation.

The guardians not responsible for the use unsanctioned by them.

At the same time the guardians could not be made responsible in respect of a use of these documents by the oversers, of which the former were not cognizant, and to which they were not consenting parties. This remark became necessary, because the surveyor often supplied his valuation to the overseers to be used by them in the making of rates, before he had presented it to the guardians, or without any communication with them.

Time for the completion of the contract.

The contract usually stipulated that the map or valuation should be completed by a given time. The period was frequently too short; all parties were at the outset impatient to have the matter concluded, and accordingly an insufficient period was agreed upon. When the time appointed arrived, if the map or valuation were not completed, the contract was at an end, and it appeared to be one in which time was essential, so that the guardians might at once have determined the contract. This, however, was seldom done; more time was granted, and considerable delay often occurred. Though extreme strictness might not have been advisable in this

case, it is to be feared that the guardians were generally too lax, and afforded too readily an extension of time, to the prejudice of the parties interested in the new survey and valuation.

Provision for the non-completion within the stipulated time.

When it apeared highly probable that the surveyor could not complete his contract, and the time had been extended to no purpose, the guardians were advised to fix some definite time; and if the work were not then ready, to declare the contract entirely determined. In such a case they were required to proceed to make a new contract; and if they could not obtain such low terms as in the first instance, or if they suffered any loss in consequence of the non-completion of the contract, they had a right in law to recover from the surveyor the amount of the loss which they sustained. It did not appear that any loss sustained by the parish or parish officers could be recoverable in damages, as the parish officers were not parties to the contract. But in some contracts the guardians specified a sum to be paid as liquidated damages by the surveyor who might fail to complete his contract according to its terms.

Death of the surveyor.

The death of the surveyor before the completion of the survey and valuation, determined the contract, as this is one requiring personal skill and knowledge on the part of the surveyor, and therefore is not executable by his personal representatives; although the guardians by the terms of their contract could hold these representatives responsible for the actual default of the surveyor in his lifetime.

The sub-contrac-

The guardians and the parish officers were cautioned not to interfere with, or in any manner to recognize the

sub-contractors, with whom the surveyor contracted, for the performance of any of the parts of the subject-matter of the contract. The guardians were advised to look to the surveyor, and hold him responsible for the due fulfilment of that contract, and it was shown that their right might be defeated by any interference with the sub-contractor. tors not to be dealt with.

The guardians were also reminded, that they contracted for a map or plan, and consequently were entitled to the original document made and completed by the surveyor. They were not to be satisfied with a copy, whether drawn or engraved, or with what was not uncommonly offered as a substitute,—a lithographed print. Copies not receivable.

Again, in reference to the valuation, it was pointed out that the valuer was not to make a rate; he was not required to do more than to ascertain the annual value of the rateable property in the parish. He could not determine any question of exemption from rate, nor any particular proportion in which the property might be rateable. His document was to be for permanent use, and not to be used as a rate by the overseers, and thus destroyed almost as soon as it was made. A rate is not to be made by the valuer, but valuation.

It is not necessary to consider how the cost of this valuation and map was provided in accordance with this clause, as it is not likely to be acted upon hereafter. The remarks in former editions upon this head are therefore now omitted. The 27 & 28 Vict. c. 39, s. 8, enables a loan to be obtained for paying the cost of a

valuation made for a parish under the Assessment Acts, and though sect. 10 provides for the making of a map, it does not authorize a loan for its payment.

It is necessary, however, to observe that the statute now commented upon contains an ambiguity with reference to the mode of providing for these expenses, because it authorized the adoption of two modes, but has not explained who is to have the option. The choice is to be made as they shall see fit, but it is uncertain to whom the word "they" applies, whether to the guardians, or to the Poor Law Commissioners.

In the earliest orders of the commissioners upon this section, they were accustomed to take upon themselves to determine this point, and prescribed the course to be pursued; and where they did so, the guardians could only adopt that course. If, therefore, they ordered a charge to be made upon the rates, the guardians could not make an order upon the churchwardens and overseers to provide for the payment by a separate rate: *Reg.* v. *Bangor*, 10 Q. B. 91; 16 L. J. R. M. C. 59.

After this decision, the Poor Law Commissioners altered the terms of the order which they issued, and left the option to the guardians of requiring a separate rate to be made, or a charge on the rates in the terms of the statute.

This has become immaterial, since the provisions in the recent Assessment Acts supply a different course.

Lender's remedy.

Although the statute required that provision should be made for the repayment of the loan within five years, there was no limitation of time within which the creditor must enforce the repayment. He was not precluded from recovering his loan though the five years might have elapsed, and although his security made it repayable by five annual instalments. His remedy was a writ of *mandamus* to be granted by the Court of Queen's Bench. That court would not, however, have interposed to assist a creditor who had been guilty of *laches* in regard to enforcing his security. In a late case where no payment had been made for thirteen years after the expiration of the fifth year, but the creditor had repeatedly claimed his debt and applied for it to successive overseers, the court granted the writ: *Reg.* v. *Hurstbourne Tarrant,* 31 L. T. 115; 22 Jur. 783; 27 L. J. R. M. C. 214; 22 J. P. 817; 1 E. B. & E. 246.

Time within which loans for valuations must be discharged.

But now reference must be made to the 22 & 23 Vict. c. 49, s. 3, which provides that where any sum shall have been or shall be borrowed by any guardians, and the debt shall have been or shall be charged by the said guardians on the poor rates, under the authority of any statute, and the same shall be made payable on a day certain, the time of limitation prescribed by that Act for payment of debts shall commence on that day; and in the case of any debt repayable by instalments, each instalment shall be payable within one year next after the day when the same shall fall due, unless the Poor Law Board shall allow an extension of the time for the payment, not exceeding six months, and the interest

payable shall be payable within the like times only as the principal.

Cost of valuation allowed to be paid out of the parish property by the commissioners.

The cost of the map and valuation was a subject to which the Poor Law Board considered themselves justified in applying the produce of the sale of parish property under 5 & 6 Will. 4, c. 69, s. 3, but as that appropriation can only be made upon the supposition that this was a matter of permanent benefit to the parish whose property has been sold, the board refused to sanction the application of such produce to this purpose, until they had been satisfied that the valuation and map were correct and trustworthy, and therefore calculated to be of lasting benefit to the parish. Consequently, they seldom allowed the produce of such sale to be applied to this purpose, unless the guardians had entered into such a formal contract as would secure the acquisition of a correct map or valuation; nor until the same had been made and been acquiesced in by the parish.

No rule has been laid down in respect of a valuation or map obtained since the recent Assessment Acts.

The guardians cannot contract for copies for themselves.

When a map was to be provided, it was stated that the guardians could not contract to be supplied with one or more copies for themselves; and if any such be provided, could not claim to retain them. They might stipulate with the surveyor to secure to themselves the copyright in the map; in which case, however, they were trustees for the parish, and were bound to make

the most of it for the benefit of the parish. As, however, the securing of the copyright enhanced the price, there did not appear to be any advantage to the parish in the guardians securing that right, except when a commutation of the tithes or some similar object in the parish was contemplated; in which case the possession of the copyright might enable the parish to reimburse itself some portion of the cost of the survey.

Provision for the use of a map.

On the other hand, it might be sometimes expedient for the valuer to avail himself of an accurate map already existing in the parish, without having a new one made. The use of this might be conceded to him gratuitously, and no question would then arise, as sect. 4 expressly authorizes him to use such a survey. But a payment might be required for the use; and it does not appear that, though a copy of such a map might be purchased by the guardians under this section of the Act, they could pay for the mere use of the map.

5 & 6 Vict. c. 54.

The Tithe Act, 5 & 6 Vict. c. 54, passed in 1842, however, contains the following provision in reference to what are called first class maps.

Power in certain cases to use tithe-commutation maps for parochial purposes.

In sect. 13, it is enacted, "that it shall be lawful for any board of guardians of any parish or union, with the consent of the Poor Law Commissioners, and subject to such conditions as the said Poor Law Commissioners may prescribe, to pay out of the rates of any parish any portion of the cost of making or

providing any map or plan which shall have been confirmed under the hands and seal of the Tithe Commissioners, or any other sum of money by way of consideration for the use of the said map or plan, for the purpose of estimating the net annual value of property in respect of which rates may be assessed for the relief of the poor: and after the Tithe Commissioners shall have certified in writing that such money has been paid, the overseers of the parish, or any person authorized by them in writing, or any officer of the said board of guardians, or any person authorized by them in writing, shall, at all reasonable times, have access to the copy of the said map or plan deposited with the incumbent and church or chapel wardens of the parish, or other persons approved by the said Tithe Commissioners, and may inspect and make copies or extracts from the said copy without paying anything for such access or inspection, or for making such copies or extracts."

The statute appears to provide for the case where the map has been already made and confirmed by the Tithe Commissioners, and is therefore not aptly framed to meet the cases where the map and valuation were proceeding contemporaneously.

The Poor Law Commissioners only took care to satisfy themselves that the map had been duly certified and approved of by the Tithe Commissioners, and did not find it necessary to impose any particular conditions in the application of this provision, which has been found to be of little practical avail.

As the valuation and the map, where any such was made under this statute, were in fact made for the parish, and paid for out of the poor rates of the parish, they became the property of the parish, and were to be deposited in such custody as the inhabitants in vestry assembled might think fit to direct, according to 58 Geo. 3, c. 69, s. 6; so, however, that the parish officers might have access to them for the purpose of making the rates. Until, however, such direction was given, the guardians were entitled to the custody, subject to the right of the overseers to the inspection and use of them for such purpose, because no other person could, in the absence of all direction by the vestry, show a better claim. Custody of the valuation and map.

Disputes sometimes arose between boards of guardians and parishes upon the subject of the custody of these documents, but the legal principles appear clearly to be as thus stated.

As regards the valuation lists made under 25 & 26 Vict. c. 103, express provisions are made for their custody, which will be found in that Act.

No means existed by which in general a valuation of some part only of a parish could be procured by competent authority, unless the same were rendered necessary by an appeal against the rate. This was remedied by the Act 10 & 11 Vict. c. 110, s. 7, which enacted, "that the guardians of any union may, on the application of the major part of the overseers of any parish comprised in it, or of any person assessed to the poor As valuations of part only of the rateable property.

Guardians may cause a valuation to be made at any

time of property alleged to be rateable.

rate in any such parish, cause a valuation to be made at any time of any property alleged to be rateable to the relief of the poor, being a part only of the rateable property of such parish, and may charge the expenses of such valuation to the overseers of such parish, or to such person so applying as aforesaid."

By 31 & 32 Vict. c. 122, s. 28, these provisions are extended to the guardians of a parish not comprised in any union.

In carrying this provision into execution the guardians should take care to have a proper contract made for the valuation of that part of the property of the parish which is to be valued. They are evidently to act in this case as in the general case to which the Parochial Assessment Act applies, with one exception. They were not required to have the order of the Poor Law Board. Hence, they should not simply consent to the employment of a surveyor by the overseers, but should carefully select the valuer, and make a formal appointment of him for this special service.

When the application is made by the overseers, little or no difficulty will occur as to the payment. If a ratepayer apply, the guardians should require him to guarantee them against the cost.

Where the rate is appealed against, it was the opinion of the Poor Law Board that as the overseers must take all reasonable means to defend the rate themselves, they are justified in employing surveyors

to value any of the property which is the subject of the appeal, preliminary to the trial, without any other authority.

The Act, 25 & 26 Vict. c. 103, contains additional provisions, whereby the valuation of particular properties in parishes may be valued for the overseers; and has practically superseded 10 & 11 Vict. c. 110, s. 7, in unions, though it has not been actually repealed.

Interpretation of terms used in the statute.

It is to be observed, that in this and the subsequent sections, the term parish alone is used; and though it is probable that considering the whole of the Act, the courts would interpret it to signify every place for which a separate poor rate is made, the question is in fact determined by 5 & 6 Vict. c. 57, s. 18, which, as already noticed, incorporates 6 & 7 Will. 4, c. 96, with 4 & 5 Will. 4, c. 76, and enacts that the words "guardian," "justice or justices of the peace," "overseers," "parish," "person," "poor rate," "general quarter sessions," and "union," and the words importing the singular number, or the masculine gender only, in the present statute, shall be interpreted as in the Poor Law Amendment Act. The following passage, therefore, is here introduced from the 109th section of 4 & 5 Will. 4, c. 76:—

"The word 'guardian' shall be construed to mean and include any visitor, governor, director, manager, acting guardian, vestryman, or other officer in a parish or union, appointed or entitled to act as a manager of

the poor, and in the distribution or ordering of the relief to the poor from the poor rate, under any general or local Act of parliament;

"The words 'justice or justices of the peace' shall be construed to include justices of the peace of any county, division of a county, riding, borough, liberty, division of a liberty, precinct, county of a city, county of a town, cinque port, or town corporate, unless where otherwise provided by this Act:

"The word 'overseer' shall be construed to mean and include overseers of the poor, churchwardens, so far as they are authorized or required by law to act in the management or relief of the poor, or in the collection or distribution of the poor rate, assistant overseer, or any other subordinate officer, whether paid or unpaid, in any parish or union, who shall be employed therein in carrying this Act, or the laws for the relief of the poor, into execution;

"The word 'parish' shall be construed to include any parish, city, borough, town, township, liberty, precinct, vill, village, hamlet, tithing, chapelry, or any other place or division, or district of a place, maintaining its own poor, whether parochial or extra-parochial;

Since the establishment of union chargeability this definition has become inapplicable in unions, and the statute 29 & 30 Vict. c. 113, s. 18, accordingly has enacted that "in all statutes, except there shall be

something in the context inconsistent therewith, the word parish shall, among other meanings applicable to it, signify a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed."

"The word 'person' shall be construed to include any body politic, corporate, or collegiate, aggregate or sole, as well as any individual;

"The words 'poor rate' shall be construed to include any rate, rate in aid, mulct, cess, assessment, collection, levy, ley, subscription, or contribution raised, assessed, imposed, levied, collected, or disbursed for the relief of the poor in any parish or union;

"The words 'general quarter sessions' shall extend to, and be construed to include, general or quarter sessions, or adjournment thereof, for any county, division of a county, riding, borough, liberty, division of a liberty, precinct, county of a city, city, county of a town, cinque port, or town corporate, unless where otherwise provided by this Act;

"The word 'union' shall be construed to include any number of parishes united for any purpose whatever under the provisions of this Act * * * or under 22 Geo. 2, c. 83 (now repealed by 34 & 35 Vict. c. 116), or incorporated for the relief or maintenance of the poor under any local Act;

"And wherever in this Act, in describing any person or party, matter or thing, the word importing the

singular number or the masculine gender only is used, the same shall be understood to include, and shall be applied to several persons or parties, as well as one person or party, and females as well as males, and several matters or things as well as one matter or thing, respectively, unless there be something in the subject or context repugnant to such construction."

COMMENTARY ON THE FOURTH SECTION.

Surveyor's right of entry.

It is to be observed, that this clause empowers the surveyor to enter, view, and examine any messuages, lands, and other hereditaments, for the purpose of his survey. Hence, if he enter without notice or special license, he will not be a trespasser. But it is very doubtful whether he can force an entrance where admission is refused and his entrance is resisted. The surveyor cannot be advised to attempt to do so. He must in such a case make his survey and valuation as well as he can, and the occupier will have himself to blame if, under such circumstances, he shall consider the rate on his premises excessive, and be driven to an appeal.

Meaning of the proviso.

It is difficult to understand the object and effect of the proviso in this clause. Probably the intention was that if a map or valuation of any estate which the surveyor deemed correct was tendered to him, he should not enter the premises; but no such prohibition is expressed, and as the clause is framed it is merely provided that the surveyor may use such map or valuation—a provision that would have been assumed although the statute had not contained it.

COMMENTARY ON THE FIFTH SECTION.

Extent of the 5th section.

This clause is confined to the rate, and does not give any right to an inspection of the map or valuation of the parish, as is frequently supposed. It does not repeal the law formerly existing with reference to the inspection of the rate, though its provisions are somewhat different: *Tennant* v. *Cranston,* 8 Q. B. 797; 15 L. J. R. (N. S.) M. C. 105; 2 N. S. C. 425.

Provision of the 17 Geo. 2, c. 3, s. 2, and the decision thereon.

The 17 Geo. 2, c. 3, s. 2, required the parish officers to allow an inspection of every poor rate to any inhabitant of the parish on payment of a shilling, and to give a copy of the rate or any part of it on being paid sixpence for every twenty-four names. Sect. 3 imposed a penalty on the parish officer refusing such inspection or copy.

This Act has been construed not to apply to the parish officers themselves, so as to give any one of them a right to a penalty against his colleagues: *Wethered* v. *Callcutt,* 11 L. J. R. (N.S.) M. C. 123; 5 Scott, 409; S. C. 2 Lum. P. L. C. 95.

It has been held, that the inhabitant claiming to inspect the rate need not be rated, and that his right is not restricted to the existing rate of the parish: *Batchelor* v. *Hodges,* 4 A. & E. 592; S. C. 1 Lum. P. L. C. 145. But in the section now under consideration the power is conferred on the ratepayers only.

Custody rate books.

The statute 17 Geo. 2, c. 38, s. 13, which required copies of all rates for the relief of the poor to be entered in books to be provided by the churchwardens

and overseers, enacted that such books should be carefully preserved by them in some place in the parish, whereto all persons assessed, or liable to be assessed, might freely resort.

And 58 Geo. 3, c. 69, s. 6, provides that all rates and assessments should be kept by such person or persons and deposited in such place and manner as the inhabitants in vestry assembled shall direct.

It imposes a penalty upon any person having the custody of any such rate or assessment who shall wilfully or negligently destroy, obliterate, or injure the same, or refuse to deliver it to the person or deposit it in the place appointed by the vestry.

It is understood that this Act applies to rate books and assessments which are closed. Current rate books must be in the possession of the overseers or of the collector, who requires them for his collection: *Reg.* v. *Christchurch*, 7 E. & B. 409; 26 L. J. M. C. 68.

Rate books, when open to inspection of ratepayers.

The 7 & 8 Vict. c. 101, s. 33, requires the overseers to cause their rate books to be made up and balanced seven days before the audit, and to deposit them in some place in the parish, and to notify the same publicly in the parish. It is then provided that such books shall, on each of those days, be open between the hours of eleven and three for the inspection of every person liable to be rated to the relief of the poor.

The auditor, by sect. 32 of that Act, may find certain books to be due from a person accounting to

him, and certify accordingly, and enforce the delivery of the same books to the person entitled to receive them.

It will be convenient to mention other statutes which authorize the inspection of the poor rate.

Inspection under the Assessed Tax Act.

By 43 Geo. 3, c. 161, s. 16, the assessed taxes commissioners and their surveyors are authorized to inspect and take copies of or extracts from the poor rate; and persons having custody thereof, and refusing to allow the same to be done, are subject to a penalty of 10*l.*

Under the Highway Act.

Power is given, by 5 & 6 Will. 4, c. 50, s. 38, to the surveyor of the highways, and to any person authorized by him in writing, to inspect the poor rate, and to make extracts therefrom, a penalty of 5*l.* being imposed on the person having the custody for refusal.

Under the Income Tax Act.

The 5 & 6 Vict. c. 35, s. 76, empowers the income tax commissioners, inspectors, surveyors, and assessors to inspect and take copies or extracts from the poor rate without payment of any fee, and subjects overseers who refuse to permit them to do so to a penalty of 20*l.*

Under the Parliamentary Registration Act.

The 6 & 7 Vict. c. 18, s. 16, enables registered electors for members of parliament, and claimants, to inspect the poor rate book, and to make extracts therefrom, between the 10th and the 31st August, without the payment of any fee. And by 41 & 42 Vict. c. 26, s. 13, in every parish situate wholly or partly either in

a parliamentary borough or a municipal borough the whole or part of the area whereof is co-extensive with or included in the area of a parliamentary borough, the books containing the poor rates made for the parish within the previous two years shall at all reasonable times be open free of charge to the inspection of any person who is registered as a parliamentary voter for the parliamentary borough, or enrolled as a burgess for the municipal borough, and such voter or burgess may make any copy thereof or take any extract therefrom.

Inspection under the Towns Improvement Clauses Act.

The Towns Improvement Clauses Act, 10 & 11 Vict. c. 43, s. 178, provides that the commissioners therein referred to shall have a like power to inspect the poor rate and to take copies or extracts therefrom, and imposes a penalty of 5*l.* upon the overseers who will not suffer them to do so.

Under the Public Health Act.

The Public Health Act, 1875, 38 & 39 Vict. c. 55 s. 212, enacts that for the purpose of assessing general district rates any person appointed by the urban authority may inspect, take copies of, or make extracts from any valuation list or rate for the relief of the poor within the district, or any book relating to the same. Any officer having the custody of any such rate or book who refuses to permit such inspection or the taking of such copies or extracts shall be liable to a penalty not exceeding 5*l.*

The Public Health Act, 1875, Sch. 11, Part I., Rule 38, also requires the clerk of the board of guardians of any union, and the overseers or other officers of every parish wholly or in part within the parts for which the election is held, and having the custody of

any books or papers relating to the election of guardians of the poor, or of the poor rate books relating to any such parish, to permit the same to be inspected, and copies or extracts to be taken therefrom by the returning officer; and any person having the custody of any such books or papers who refuses to permit the same to be inspected or copies or extracts to be taken therefrom shall be liable to a penalty not exceeding 5*l.*

Inspection under the County Rate Act.

The 15 & 16 Vict. c. 81, s. 7, enables the county rate committee, when they consider it necessary for the purpose of that Act (the County Rate Act) to call for all parochial assessments, and the valuations from which they are made, and it imposes a penalty not exceeding 20*l.* on any person having their custody who refuses to produce them.

Under the Union Assessment Committee Act.

The 25 & 26 Vict. c. 103, s. 13, gives a like authority to the assessment committee of the union which comprises the parish.

The text of 6 & 7 Will. 4, c. 96, s. 5, does not in terms give a right of inspection, but as the refusal to allow an inspection would be tantamount to a refusal to allow a copy to be made, it may properly be considered that inferentially the right to the inspection is conferred.

Vestry clerk's duty.

When a vestry clerk is appointed for a parish under 13 & 14 Vict. c. 57, it is enacted in sect. 7 that one of his duties shall be "to keep the vestry books, and the parish documents, and the rate books, and accounts which are closed, and to give copies of, and extracts from, the same to any person entitled thereto (such

person paying for the same at the rate of fourpence for every seventy-two words or figures), and to permit any person or persons rated to the relief of the poor of the said parish, at all reasonable times, to inspect the same or any of them, on pain of dismissal for neglecting to give such copies or permit such inspection."

Reference must be made to the provisions in 25 & 26 Vict. c. 103, ss. 17, 23, in regard to the inspection of the valuation lists made for any parish in the union; and also to the 10 & 11 Vict. c. 72, s. 6, empowering clerks to guardians in South Wales to call for the production of rate books, as well as to 6 Geo. 4, c. 50, s. 11, with reference to the inspection of rates for the purposes of the jury lists; and 20 and 21 Vict. c. 64, s. 13, enabling the receiver of the Metropolitan Police to inspect rates.

COMMENTARY ON THE SIXTH SECTION.

Object of the 6th section.

The object of this clause was to give a summary and inexpensive relief to persons who are overcharged in their rates, and it has been to a considerable extent successful. But the provision is not free from objection. The justices acting in petty sessions are required to fix four special sessions at least for hearing appeals, and to cause public notice to be affixed in every parish within their division twenty-eight days before the holding thereof. It has been found in practice that the amount of appeals are very few, and quite insufficient to require those four special sessions.

How the notices of the specia

No provision is contained in the Act as to the officers who are to undertake the giving and affixing of

the notices, nor as to the remuneration to be paid to them for so doing. The clerks to the justices of the several divisions generally gave these notices, and in many cases made charges upon the overseers of the several parishes for doing so. But as there was no authority for such a charge, the 13 & 14 Vict. c. 101, s. 7, provided for the charge upon the poor rates thus:—"Whereas by the Act of the seventh year of his late Majesty, King William the Fourth, intituled An Act to regulate Parochial Assessments, it is provided that the justices acting in and for every petty sessions division shall hold special sessions for hearing appeals against the rates of the several parishes within their respective divisions, and shall cause public notice of the time and place of the holding of such special sessions to be given in each parish, but no provision is made for the payment of the costs incurred in preparing and giving of such notice:" Be it therefore enacted, that such fee or remuneration as shall have been or shall hereafter be settled by the justices of the peace at their respective general quarter sessions, according to the statute in that behalf, to be paid to the clerks to justices of the peace for the preparing and giving of a notice of a special sessions for this purpose, or in default thereof of a notice of any special sessions, shall be paid by the overseers of each parish comprised within the division for which the special sessions are to be held, and be charged by them upon the poor rate.

sessions are to be given.

The fee for giving notices of special sessions under the Act 6 & 7 Will. 4, c. 96, s. 6, to be paid by the overseers out of the poor rate.

The statute here referred to is the 11 & 12 Vict. c. 43, s. 30; see Glen's Summary Jurisdiction Acts, 4th Edition, p. 138.

It seems that borough justices can now hold such special sessions.

As the justices acting in every petty sessions division are to hold these special sessions, the Poor Law Commissioners stated their opinion, that as borough justices did not act in any such division, they did not come within this provision, and could not hold such sessions. But the 12 & 13 Vict. c. 18, s. 1, having provided that the sitting and acting of justices or of a stipendiary magistrate in a city or borough having a separate commission of the peace shall be deemed a petty sessions, and the district a petty sessional division, this distinction appears to have been removed.

Appeal to the quarter sessions.

If the party be dissatisfied with the judgment of the special sessions, the statute enables him to appeal from that judgment to the quarter sessions, and it seems that such latter appeal must be to the next practicable quarter sessions after the special sessions. See observations of PATTESON, J. in *Reg.* v. *Trafford, ubi infra.*

It must not be overlooked that the legislature has not made the appeal to the special sessions primarily an absolute substitution for the appeal to the quarter sessions. The party aggrieved has an option as to which sessions he will resort to.

The right of appeal to the sessions is reserved to the ratepayer by the 25 & 26 Vict. c. 103. s. 22, notwithstanding a valuation list may have been settled and approved by the committee for the parish. See Appendix.

The mode of giving

A case occurred, in regard to the recognizance which is required to be entered into by the party impugning

the decision of the special sessions, which should be noticed. The appellant entered into a recognizance before three justices of the peace, an entry whereof was made in their minute book by their officer, and signed. The recognizance, according to the usual practice, should have been made up from that book, and have been signed by one of the justices. It was so made up, but was not signed, and was returned to the quarter sessions unsigned. The sessions considered that the recognizance was imperfect, and refused to hear the appeal. But the Court of Queen's Bench held that the recognizance was made, and that the parties to it could not have taken this objection to it; consequently, the court issued a *mandamus* to the sessions to hear the appeal: *Reg.* v. *St. Albans JJ.*, 1 P. & D. 148; S. C. 1 Lum. P. L. C. 153. The recognizance.

With reference to the appeal, it is to be observed that notice thereof is to be given, seven days at least before the day appointed for such special session, to the overseer. The same words occur in the 81st section of the Poor Law Amendment Act, 4 & 5 Will. 4, c. 76; and it has been held, that they signify that the days should be clear, that is, both the day of giving the notice and that of its expiration must be included in the computation. See *Reg.* v. *Shropshire JJ.*, 8 A. & E. 179; S. C. 1 Lum. P. L. C. 296; and *Reg.* v. *Middlesex JJ.*, 2 N. S. C. 73. It would seem that a signature of the notice by the appellant's attorney would be sufficient: *Reg.* v. *Cumberland JJ.*, 5 Dowl. & L. 431 (n.) Notice of the appeal.

The notice of appeal to these special sessions is only to be given to the collector, overseer, or other person To whom notice must be given.

by whom the rate was made. Consequently, if any objection be made to the assessment upon other persons as unfair with reference to the appellant, it would not be requisite under this section that notice should be given to such persons, as is required by the 41 Geo. 3, c. 23, s. 6, which applies to the quarter sessions. It has been held that service of notice of appeal upon one of the overseers is sufficient: *Reg.* v. *Devon JJ.*, 3 N. S. C. 96. And now, by the statute 27 & 28 Vict. c. 39, s. 1, notice must be given to the assessment committee of the union, twenty-one days before the appeal can be heard. Moreover, it is provided in the same section that no person shall appeal against the rate unless he shall have previously given notice of objection against the valuation list to such committee, and shall have failed to obtain such relief as he deems just. See Appendix. And this notice is required in reference to every rate appealed against: *Reg.* v. *Great Western Railway Company*, L. R. 4 Q. B. 323; 10 B. & S. 318.

An important question arose, as to the special sessions to which the party must make the appeal; this did not appear from the statute, but the Court of Queen's Bench has decided that the party should appeal to the next practicable special sessions after the rate has been made: *Reg.* v. *Lancashire JJ.*, 14 Jur. 552; 4 N. S. C. 130; *Reg.* v. *Trafford*, 15 Q. B. 200; *Reg.* v. *Hammond*, 4 N. S. C. 316. Where three special sessions and three quarter sessions had intervened, but no fresh rate had been made, the court considered that an appeal to the fourth special sessions was too late: *Reg.* v. *Trafford, supra.* The justices, in acting under this

section, must make their order, in writing, otherwise their judgment cannot be questioned in the Court of Queen's Bench. See *Reg.* v. *Wigan JJ.*, 6 Jur. 930.

But since 27 & 28, Vict. c. 39, s. 1, an appeal against the poor rate, soon after the decision of the assessment committee, was held to be in time, though long after the making of the rate: *Reg.* v. *Biggleswade Union*, 21 L. T. (N. S.) 494; 33 J. P. 791.

COMMENTARY ON THE SEVENTH SECTION.

Provisions of the different statutes, 43 Eliz. c. 2, 17 Geo. 2, c. 38, and 41 Geo. 3, c. 23, with reference to the quashing and amending the poor rate.

It will be right to consider what powers of amending or quashing any rate, or of awarding costs and recovering the same, have been given by previous statutes where the appeal was to the quarter sessions. The 43 Eliz. c. 2, s. 5, provided, that if parties felt aggrieved with any assessment, the justices at their sessions should do as should to them be thought convenient; and hence it appears the justices at the quarter sessions were considered to be empowered to quash the rate for any defect in it. Such power is fully admitted to exist by 17 Geo. 2, c. 38, s. 6, by which statute the justices were prohibited from altering the assessment with reference to other persons than the appellants. But 41 Geo. 3, c. 23, ss. 1 and 6, enabled the justices at their sessions in all cases to amend or alter the rate, either by inserting therein or striking out the name of any person, or altering the sum therein charged on any person, or in any other manner which the said court shall think necessary for giving such relief; but it is provided, that if the court shall be of opinion that it is

necessary for the purpose of giving relief to the applicant that the rate should be wholly quashed, then the court may quash the same.

By sect. 3, when the court has ordered a rate to be quashed, they may order any sum in the rate charged on any person not to be paid, and thereupon all proceedings to recover the same shall be discontinued or prevented; but sect. 7 provides that the rate, when altered, shall be recovered according to the alterations made. Sect. 8 requires the justices to order in every case where the name is struck out, or the amount of the assessment is reduced, that any amount which has been paid over and above what ought to have been paid shall be refunded by the churchwardens and overseers.

When the rate is quashed by the justices under this Act, the overseers are required, by 41 Geo. 3, c. 23, s. 1, to give credit in the next effective rate for sums paid under the quashed rate, and this provision applies to persons who did not appeal against it previous to its being quashed as well as to the appellants: *Reg.* v. *Kingston-upon-Thames JJ.*, 22 J. P. 36; 22 Jur. 760. But a person not assessed in the quashed rate cannot claim a deduction in the subsequent rate, though made to make good the deficiency caused by the deductions allowed to the previous ratepayers: *Ib.*

Costs. The 17 Geo. 2, c. 38, enables the justices to award reasonable costs to the party for whom the appeal shall be determined, in the same manner as in cases of appeals against orders of removal by 8 & 9 Will. 3, c. 30,

the 3rd section whereof provides for the order being made by the sessions; and enacts that if the party liable thereto lives out of the jurisdiction of the sessions, a justice of the peace of the place where the party inhabits shall enforce the payment of the order for the costs by issuing a distress warrant, or in default of sufficient distress, by committing the party liable to prison for twenty days.

The statute 12 & 13 Vict. c. 45, s. 5, enables the court of quarter sessions to order payment of costs, and provides that they shall be recoverable in the manner provided by 11 & 12 Vict. c. 43. It seems from the cases of *Reg.* v. *Huntley*, 3 E. & B. 172, and *Gay* v. *Matthews*, 7 L. T. 504, that the order for costs may direct the payment to be made to the party entitled, or to the clerk of the peace for such party.

Where the party lives within the jurisdiction of the sessions, the disobedience of their order would also be punishable by indictment.

The entering of the appeal and the quashing of the rate by the sessions, after the respondents had given notice that they would not oppose the appeal, were held to be a determination of the appeal: *Rex* v. *Cowston*, 4 D. & R. 445. But unless a determination do take place, no costs can be granted: *Rex* v. *Essex JJ.*, 8 T. R. 583. If the appellant do not appear, and the court dismiss the appeal with costs, those costs may be the full costs incurred by the respondents, though no express notice be given to the appellants of an in-

tention to claim them: *Reg.* v. *The London, Brighton, and South Coast Railway,* 12 Jur. 897; 17 L. J. R. M. C. 119.

Evidence of the rate.

It may be here noticed, as a matter of evidence, that the 32 & 33 Vict. c. 41, s. 18, enacts that the production of the book purporting to contain a poor rate, with the allowance of the rate by the justices, shall, if the rate be made in the form prescribed by law, be *primâ facie* evidence of the due making and publication of such rate, but the section does not apply to a highway rate, as the Act is not incorporated with the Highway Acts: *Bird* v. *Adcock,* 42 J. P. 308.

Order of the court for refunding of the rate.

The 41 Geo. 3, c. 23, s. 8, provides that where money is ordered to be refunded, the court shall order the money to be refunded, with all reasonable costs, charges, and expenses occasioned by such person having paid the same; and that such sum, together with all such costs, shall be levied and recovered by distress, and by all such other means as the poor rate can be levied or recovered.

Upon this section, it has been held, that the court which hears the appeal is alone capable of making this order, and that no subsequent court of sessions can do so: *Rex* v. *Justices of St. Peter's Liberty, York,* 4 B. & Ad. 342; 1 N. & M. 108.

Refunding of rate paid prior to the appeal.

If the rate be paid previous to notice of appeal, the overseers cannot be compelled by action to refund the amount, though the rate be afterwards reduced: *Priestley* v. *Watson,* 2 Cr. & Mee. 691. But if the party

assessed pending the appeal pay the full rate on an assessment afterwards reduced by the sessions, the overseers may give credit for the excess in subsequent rates without an order of sessions, and the Court of Queen's Bench will not compel the issue of a distress warrant to compel the payment of those rates in full: *Reg.* v. *Parker*, 7 E. & B. 155; 26 L. J. M. C. 313.

The provision in the 6th section of the statute in the text (which perhaps must be considered as applicable to the justices in the special sessions only, though that construction is open to some question), gives a complete discretion to those justices in regard to the awarding of costs.

COMMENTARY ON THE SCHEDULE.

Form of the rate.

On reference to sect. 2, it will be seen that the form of the schedule is not necessarily to be the form of the rate. But it is provided that there shall be an account of every particular set forth at the head of the respective columns in the form given in the schedule, in addition to any other particulars which the form of making out such rate shall require to be set forth. As before noticed, there was no form given by any statute, neither was any form specifically required by law; but the Poor Law Commissioners considered that, under the power given by the 4 & 5 Will. 4, c. 76, s. 15, of issuing orders to regulate the keeping of the accounts which relate to the management or relief of the poor, they were justified in prescribing a particular form of rate.

They have in their first orders of accounts set forth a specific form in which the rate was to be made, which form was issued before the passing of the Parochial Assessment Act. The form so given contained all the particulars set forth in this statute. But they also prescribed, in the order which they issued in conformity with the provisions in the 1st section, a form in which the rate should be drawn up; that form was also set forth in the general order relating to the duties of overseers, which they issued April 22, 1842.

In the general order of accounts, issued March 17, 1847, they prescribed another form of rate book, which was afterwards modified by a general order, dated November 18, 1850, issued after the passing of the Small Tenements Rating Act, 13 & 14 Vict. c. 99. This was afterwards altered by another general order, dated November 16, 1854. The Poor Law Board, by a General Order dated 14th January, 1867, rescinding all previous orders, prescribed a form of rate book, as follows :—

Form of Heading to the "Rate."

An Assessment for the Relief of the Poor of the Parish of , in the County of , and for other purposes chargeable thereon, according to law, made this (*a*) day of , in the year of our Lord One thousand eight hundred and after the rate of in the pound (*b*).

No.	ARREARS.		RATE.									COLLECTION.						
	Due, or if excused.	If excused, write the word "excused."	Name of Occupier.	Name of Owner.	Description of Property rated.	Name or Situation of Property.	Estimated Extent.	Gross Estimated Rental.	Rateable value.	Rate in the pound.	Amount of Rate assessed upon, and payable by, the Owner, instead of the Occupier, by virtue of the Statute or Statutes in that behalf.	Recoverable arrears of former rates.	Total amount to be collected.	Amount actually collected.	Uncollected at Balancing this Book.			
															Recoverable	Irrecoverable at Balancing this book.		
															Arrears at balancing the Book.	Amount legally excused.	Otherwise not Recoverable.	
																	Amount.	Causes.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
	£ s. d.						A. R. P.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	

Form of Declaration at the foot of the "Rate."

We, do declare the several particulars specified in the respective columns of the above Rate to be true and correct so far as we have been able to ascertain them, to which end we have used our best endeavours. *Or*, We, the undersigned do hereby declare that one of us, or some person on our behalf, has examined and compared the several particulars in the respective columns, of the above rate with the valuation list made under the authority of the Union Assessment Committee Act, 1862, in force in this parish, and the several hereditaments are, to the best of our belief, rated according to the value appearing in such valuation list (*c*).

We do declare that the total of the above Rate amounts to the sum of pounds, shillings, and pence (*d*).

, *Overseer.*
, *Overseer.*

, *Churchwarden.*
, *Churchwarden.*

(*a*) This should be the day when the rate is allowed by the justices.

(*b*) Since the passing of the 32 & 33 Vict. c. 41, s. 14, it has become necessary to add some such words as these "which is estimated to meet all the expenses for the above purposes which will be incurred before the day of next," and when it is proposed to collect it by instalments, to state for what number of instalments the same shall be collected thus, "and which rate we declare to be payable by instalments, to be paid respectively on the following days, that is to say, on the day of instant, and the day of next."

(*c*) In parishes not in union the first alternative is to be used; for parishes in unions the second.

(*d*) This is to be obtained by adding columns 11 and 12 together.

In the same general order the board made the following directions:—

Columns in the rate book to be added up.

(*a*) The several columns of the rate book, which contain the gross estimated rental and rateable value, and the rate in the pound assessed upon the several persons liable to be assessed, the recoverable arrears and the total amount to be collected, shall be added up at the foot of every page, and the several totals shall be ascertained and set forth at the foot of the rate, before the same shall be submitted to the justices for their allowance.

Rate may be divided into districts.

(*b.*) If the overseers shall deem it convenient, the rate may be divided into several portions corresponding with the several divisions of their parish, if any, so as to bring all the rateable property of each division together, and there may be separate series of numbers for the assessments in every division, and they may in like manner bring together in the rate separate classes of rateable property.

All the properties of the same owner may be assessed together.

(*c.*) The overseers may, if they think proper, bring together and assess under one number all or any portion of the properties situated in the parish, or in any separate division thereof, if there be any, belonging to the same person, and for which he shall be liable to be assessed as owner.

But it was provided that nothing therein contained shall apply to any poor rate made under the authority of a local Act by persons other than the overseers.

The title of the rate.

It is well here to notice that the title of the rate should be carefully attended to. In *Reg.* v. *Byron*, 12 A. & E. (N.S.) 326, COLERIDGE, J., speaking of a church rate, says :—"The title is important for two purposes—to show the objects of the rate, and the authority of those who make it." And afterwards:—"The title must be defective, if it describes a rate which would justify expending money illegally."

The total want of the title renders the rate absolutely void; but a rate which describes the property in respect of which it is laid as "land, &c.," and omits the "name and situation of the property," and its "estimated extent," is not therefore void; *Moulton* v. *Eastern Counties Railway Company*, 5 E. & B. 974; 25 L. J. R. M. C. 49; 20 J. P. 566.

Period for which the rate is to be made to be set out.

In the statute 32 & 33 Vict. c. 41, s. 14, it is enacted that the overseers of every parish, when they make a poor rate, shall set forth in the title of the rate the period for which the same is estimated, and if the same is payable by instalments, the amount of each instalment, and the date at which each instalment is payable. See Appendix.

Rate payable by instalments.

The 15th section enables the overseers who make a poor rate for a period exceeding three months to declare that it shall be paid by instalments at such times as they shall specify, and thereupon each instalment only shall be enforceable as and when it falls due.

Arrears due, or if excused.

In the schedule of the statute in the text, the second column is headed "Arrears due, or if excused." These

Arrears of rate.

are distinct matters, and would seem to have required separate columns, but it is a question of much uncertainty to what they refer, whether the arrears of a former rate, or the arrears due on the closing of the present rate. It is also doubtful to what rate the excusal can refer.

It will be observed that the Poor Law Commissioners seemed to understand the meaning of the legislature to be, that the arrears of the past rate are to be inserted in the column, and the word excused to apply to those arrears. But in the example to the schedule to the Act the amount which is entered as excused, is the amount which is inserted in the current rate. At the same time, the overseers are to make the declaration as to the particulars in the respective columns; and how can they do so, if the excusal refers to the rate which is then being made?

In *Reg.* v. *Fordham*, 9 L. J. R. (N.S.) M. C. 3, WILLIAMS, J., appears to admit that this column was for the arrears of the former rate; but the point was not argued. The commissioners made a distinction in their order of 1847, to obviate this technical difficulty, by directing that rate books should be provided, in which the rate itself shall be entered, and in which rate book there shall be a copy of the rate, with the additional columns showing the total amount to be collected and the amount actually collected, the arrear at the making of the new rate, and the amounts excused or irrecoverable.

The intention of the legislature seems to have been, that when the rate was made, there should have been left a blank column in which the overseers should have entered the rates which were excused, and those which were in arrear, when they delivered the rate to their successors, or made a new rate. Certainly, however, this intention has not been clearly expressed; and it is probable that much confusion exists with reference to this point in many parishes.

When a rate is deemed to be made.

A question of difficulty which had arisen in many cases, namely when the poor rate is made, has been settled by the 32 & 33 Vict. c. 41, s. 17, which declares that a poor rate shall be deemed to be made on the day it is allowed by the justices, and if the justices sever in their allowance, then on the day of the last allowance. See Appendix.

Name of occupier to be set out.

The same statute, in sect. 19, requires the overseers in every case, whether the rate is collected from the owner or occupier, or the owner is liable to the payment of the rate instead of the occupier, to enter in the occupier's column the name of the occupier of every rateable hereditament.

The overseer is liable to a penalty for negligent or wilful omission without reasonable cause.

A previous section (No. 6) requires owners in certain cases to deliver to the overseers a list of the names of the actual occupiers of the houses for which they compound, or for which they are liable to be rated.

Description of occupier.

There is no rule or enactment to guide the overseers as to how to describe the occupier in the column appropriated to that name. They must describe him according to the best information which they can obtain. Various descriptive terms have been admitted to be sufficient, such as *A. & Co.*, *Mills Brothers*, *B.'s Exors.*, where the persons intended are known to the overseers, and can be identified. But the actual occupiers should, if possible, be fully named.

Corporations, joint stock companies.

It is right, perhaps to refer to 30 & 31 Vict. c. 106 s. 10, which in the case of corporations aggregate, joint stock or other companies, commissioners, or public trustees enables any officer from time to time appointed by the governing body, whose name shall be sent in writing to the overseers before the 1st day of March in any year, to be entered in the rate book under the name of such corporation, company, commissioners, or public trustees. Such officer shall be entitled to vote in respect of the property as if it were his own; but he is not made liable for the rate. See Appendix.

Succesion of occupation.

Provision is made by the 31 & 32 Vict. c. 122, s. 38, for the rating of persons who come into occupation of premises after the making of the rate, in cases when the house or building was incomplete or unfit for occupation, or was not entered as such in the valuation list in force when the rate was made. See Appendix.

And the 32 & 33 Vict. c. 41, s. 16, makes provision for persons who come into the occupation of premises pending the currency of a rate, which the person in

occupation at the time when the rate was made has quitted. See Appendix.

In both cases the incoming occupier is to be placed on the rate and compelled to pay a proportionate part of the rate.

Where, however, an outgoing occupier quits premises before the expiration of the period for which the poor rate was made and is not followed by an incoming tenant, but the premises remain unoccupied during the remainder of the period, the outgoing occupier is liable for the whole of the rate, and section 16 of the Act does not apply: *St. Werburg* v. *Hutchinson*, 43 J. P. 785; L. R. 5 Exch. D. 19; 49 L. J. M. C. 23; 42 L. T. (N.S.) 153; affirmed by the court of appeal in *Hare* v. *Putney Overseers*, L. R. 7 Q. B. D. 223; 45 L. T. (N.S.) 337.

Declaration at the foot.

It must be observed, that the declaration at the foot of the rate is to be altered in every parish where the rate is not made under the provisions of a local Act when the valuation list for the parish shall have been settled and approved of by the union assessment committee. The declaration must then be as follows:—

"We, the undersigned, do hereby declare that one of us, or some person on our behalf, has examined and compared the several particulars in the respective columns of the above rate with the valuation list made under the authority of the Union Assessment Committee Act of 1862, in force in this parish or township, and the several hereditaments are, to the best of our

belief, rated according to the value appearing in such valuation list.

_____, Churchwarden.
_____, Churchwarden.
_____, Overseer.
_____, Overseer."

In the metropolis, however, the declaration is different.

It will be remembered that the Poor Law Board also require the total amount of the rate to be set out in words.

As their form contemplates that the rate on the property rated in the name of the owner should appear in a column by itself, and not in the column for the occupier's rate, the totals of the two columns must be added together, and the amount of the aggregate of both set out at the foot of the rate.

As already noticed in page 147, any defect in these formal parts of the rate does not render it void. Therefore, in the case of *Moulton* v. *Eastern Counties Railway Company, ubi supra,* it was held that an omission in the sixth column, which should show the description of the property rated, was held not to invalidate the rate, though one of the judges hesitated in coming to this conclusion.

But if the rate be not made according to the annual rateable value appearing in the valuation list in force in the parish, it will, according to the provisions of the 25 & 26 Vict. c. 103, s. 28, be of no force.

APPENDIX.

I.

Form of Contract for Survey, Plan, and Valuation.

ARTICLES OF AGREEMENT entered into this day of , one thousand eight hundred and fifty , between , of , Land Surveyor of the one part, and the Guardians of the Poor of the union, in the county of , of the other part (*a*).

WHEREAS, &c. (*State the circumstances which have led to the contract, and the order of the Local Government Board, where there is one, in the case of a map*).

NOW IT IS HEREBY AGREED, and the said doth for himself, his heirs, executors, and administrators, contract with the said guardians and their successors, that he the said shall, within calendar months from the date hereof make and complete a just and true survey and plan of the messuages, lands, and other hereditaments liable to poor rates in the said parish [*or* township] of , such plan to be made and drawn accurately, carefully, and skilfully upon the scale and in the manner mentioned in the instructions annexed by way of first schedule to these

(*a*) It will be readily seen how to make this form apply to a contract for a survey and valuation only.

presents, together with such book of reference as in the said first schedule is mentioned or referred to; and shall and will, within the said calendar months, make and complete a fair and correct valuation of the several messuages, lands, and other hereditaments liable to poor rates in the said parish [*or* township], every such hereditament which may be separately rateable at the time of the valuation to be valued separately, according to the net annual value thereof as explained by the Act (of the sixth and seventh years of King William the Fourth) to regulate parochial assessments; and shall and will cause such valuation to be fairly written in the form set forth in the [second] schedule hereto annexed and signed (*a*), with the several values and the particulars of the several hereditaments to which the same respectively relate, distinguished and set forth as in the said [second] schedule is indicated and the amounts at which he has valued the same (*a*); and shall, on or before the expiration of the said calendar months, deliver unto the said guardians, or their clerk, the said plan so to be made or taken, with such book of reference, and also such valuation so written as aforesaid, together also with one accurate duplicate or copy of such plan, drawn in like manner, in case the said guardians shall, by any writing under the hand of their clerk, signify to the said , on or before the day of , their wish to have such duplicate or copy. *And further, that the said guardians shall have the sole copyright of, or sole right and liberty of copying, engraving, printing, and causing to be copied, engraved, and printed, the said plan, and the sole benefit and advantage thereof, and of every part thereof, to the exclusion of the said , his

(*a*) These requisites are demanded by the 27 & 28 Vict c. 39, s. 4.

executors or administrators (*b*). And further, that he the said , his executors or administrators, shall not nor will, after the delivery of such plan to the said guardians, or their clerk, retain any copy or duplicate of the said plan in his or their own possession; and shall not, nor will at any time hereafter, deliver or make, or allow to be delivered or made, any copy or duplicate thereof, or of any part thereof, either on the same or any reduced or other scale, or of the working plans or sketches of the said , or of any part thereof, by, to, or for the use of any other person or persons whomsoever, without the license or direction of the said guardians, under their seal, or in anywise infringe or violate the exclusive right intended to be hereby secured to the said guardians. And that in case he the said , his executors or administrators, shall, after such delivery as aforesad, retain any copy or duplicate of the said plan in his or their own possession, or shall at any time hereafter deliver or make, or allow to be delivered or made, any such copy or duplicate thereof, or of any part thereof, either on the same or any reduced or other scale, or of the working plans or sketches of the said , or any part thereof, by, to, or for the use of any other person or persons whomsoever, without such license as aforesaid, or shall in anywise infringe or violate the exclusive right intended to be hereby secured to the said guardians, under any colour or pretence whatsoever, he the said , his executors or administrators, shall pay to the said guar-

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(*b*) In another form of contract suggested by the Poor Law Commissioners, but seldom adopted, the guardians secure to themselves the copyright for a term of years only. They may also, if they think fit, abandon this right altogether, as it may enhance the cost of the plan, and is of no material value to the parish or union. In that case the passage within * * is to be erased.

dians the sum of , as and by way of liquidated damages.* And the said guardians do, for themselves and their successors, contract and agree with the said , to pay to the said , his executors, administrators, or assigns, for the said plan, book of reference, and valuation, within two calendar months after the same shall have been delivered to the said guardians, or their clerk as aforesaid, the sum of , and for such duplicate of the said plan, in case the wish of the said guardians to have such duplicate shall have been signified as hereinbefore is mentioned, the further sum of , within two calendar months after such delivery of the said duplicate as aforesaid. And the said doth further agree with the said guardians and their successors, that in case any change shall take place in the parcels of land held by any one or more occupiers, he the said will, within fourteen days after he shall be thereunto required, deliver to the said guardians, or their clerk (*or* the overseers), a statement of all the particulars contained in the said valuation, as the same may be varied through such change, being paid for the same by the guardians or overseers who shall require the same at the rate of (*a*) [per acre, *or* in the pound, on the net value of the same]. And the said doth further agree with the said guardians and their successors that in case any rate which shall be made for the relief of the poor in the said parish [*or* township], within the term of seven years next after the said day of , one thousand eight hundred and , shall be appealed against on the ground of inequality, unfairness, or incorrectness in the valuation of any

(*a*) This should be a much smaller sum than the price paid for the original valuation, as it will merely require the surveyor to refer to the books made at the original valuation.

hereditaments included therein, he the said shall and will, in every such case, upon three days' notice in writing to him given for that purpose by the said guardians or their clerk, or by the overseers of the poor of the said parish [*or* township], or either of them, before the time when his attendance shall be required, attend before the justices at petty sessions, and at the general sessions or quarter sessions of the peace, so often and so long as the matter of such appeal, either originally or by appeal from the decision of the justices at petty sessions shall be heard, and give evidence on the matter of such objection, or being paid so much (*b*) as he may reasonably deserve for such attendance, not exceeding the sum of for each day on which his attendance shall be so required.

In witness whereof the said hath hereunto set his hand and seal, and the said guardians their common seal, the day and year first above written.

[L. S.]

Signed, sealed and delivered by the above-named in the presence of

The common seal of the guardians of the above-named union was hereunto affixed, at a meeting of the board of guardians, held on the day of the date hereof, by , chairman of the said meeting, in the presence of

, Clerk of the said Union.

(*b*) Here should be inserted the words, by the said overseers or by the guardians requiring his attendance.

THE FIRST SCHEDULE TO THE CONTRACT,

CONTAINING

THE REGULATIONS WHICH APPLY TO THE MAP.

The following instructions, which are in accordance with those formerly required by the tithe commissioners to be strictly followed in the preparation of plans for the Tithe Commutation Act (*a*), are to be observed by the surveyor and named in the above-written contract:—

DESCRIPTION OF PLAN REQUIRED.

Objects to be represented on the plan.

The plan is required to represent in their true relative positions the several objects which now occupy the surface of the ground; such as railways, roads, rivers, lakes, ponds, canals, streams, drains, parks, woods,

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(*a*) Since this contract was first framed, the tithe commissioners isssued other instructions, which embrace the regulations set out in this schedule, and also contain those which follow:—

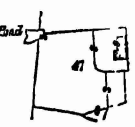
(They are printed here by way of instruction to the guardians and the surveyor, as to what should be done in preparing and executing the plan.)

DESCRIPTION OF PLAN REQUIRED.

The plan is to be made on good drawing-paper, previously mounted on linen.

* * * * *

"When the quantity of two or more contiguous parcels of land is given in one sum, the reference number must be repeated on each parcel, *or* the parcels must be connected by a brace, as in the annexed sketch: where it is shown by the brace (*a*) that four parcels of



fences, houses, and other buildings, bridges, &c., also the boundaries of counties and their various sub-divisions, such as ridings, lathes, wapentakes, rapes, hundreds, parishes, townships, &c.; and all other detail that is usually given in estate surveys.

Boundaries.

The boundaries or limits of all lands and parcels of lands which are to be assessed separately under the provisions of the Parochial Assessment Act are required to be marked on the plan, whether they be defined by fences or not; and where no boundary fences appear, the limits are to be shown by a dotted line.

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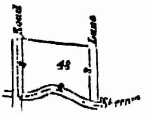
land, the house and the pond, are all included in the quantity assigned to No. 47.

"Where the whole breadth, or any portion of a road, stream, &c., is included with the adjoining field, the brace must also be used: and where only part of the road, stream, &c., is included, the exact limit to which the quantity applies must be marked with a dotted line on the plan. See No. 48, in the annexed sketch; of which the quantity is thus shown to include the whole breadth of the lane, half the road, and half the stream.



"When a parish is mapped in two or more distinct parts, a notice to that effect must be added to the title.

"The lines of construction, or main lines, should, wherever practicable, be laid out before they are chained, and be disposed in the forms of triangles, each triangle having a proper proof-line measured within it from one of the angles to the opposite side.

* * * * * * *

"The chained lines are all to be drawn upon the plan in red ink, and marked with a reference to the number of the lines in the field-books, or to the page of the book in which the notes of the measurement are entered; thus L. 1, L. 2, L. 3, &c., if referring to the lines, or P. 1, P. 2, P. 3, &c., when referring to the pages. And when several field-books are used, each book should have a distinctive letter assigned to it, which may be added to the reference upon the plan after the number referring to the line or page, thus L. 1, A; P. 1, B, &c. The lengths of the construction or main lines should also be added to their respective reference numbers.

"The entries in the field-books are to be made with ink, in the field, and the chained lines are to be numbered consecutively throughout the books.

Numbers on the plan.
Book of reference.

Each separate parcel of land is to be numbered upon the plan, the numbers following in succession, from No. 1 to the highest number required. These numbers will refer to the book of reference, in which are to be specified the name and description of each field or enclosure, with its true quantity or contents in statute measure; the names and description of the occupiers thereof; the state of cultivation of the several lands, whether as arable, meadow, pasture, wood, coppice, or common land, gardens, orchards, hop-grounds; or howsoever otherwise.

Railways, roads, rivers, lakes, ponds, and canals are to be numbered upon the plans in the same manner as inclosures, and their contents given separately in the book of reference.

Alterations in the field-books.

"When alterations are made in the field-books, an explanation of the cause of the alteration is to be entered at the same time; and erasures in the field-books can on no account be allowed.

"The quantities are not to be written upon the plan, but in the reference book only.

"The quantities in the reference book are to be arranged in the consecutive order of their reference numbers; and figures are invariably to be used for the reference."

* * * * * * *

It may be remarked that the tithe commissioners would not pledge themselves to seal a plan to which any of the following objections applied, without testing it upon the ground :—

1. Where there was any reason to distrust the authenticity or integrity of the survey.
2. Where the means afforded were insufficient to prove the accuracy of the work in all its details.
3. Where the plan did not agree with the field-books.
4. Where the field-books had been kept in common or metallic pencil.
5. Where erasures had been made in the field-books.
6. Where alterations had been made in the field-books without a satisfactory explanation being afforded.
7. Where the offsets exceeded a chain in length.

The plan is to be drawn to the scale of (*a*), and the ordinary usage is to be observed of placing the north towards the top of the plan, writing the name of the parish and county as a title, the name and address of the surveyor, the date of performance, the scale, and the total contents. Scales.

All lines measured over hilly ground are to be reduced to the horizontal plane. Slopes.

The lines of construction are, in all cases, to be drawn upon the plan in red ink, to distinguish them from, and prevent their interfering with, the lines of fences, &c.; and the length of each line in links should be marked with red figures upon it. Lines measured in the direction of external objects should be drawn out to the margin of the plan, and have the name of the external object written upon them. Lines of construction.

The parish boundary should be shown in all cases by a dotted line; and when it passes along the middle of a fence, the dots should be drawn on both sides of the fence, thus:— Parish boundary.

Fence

When a road forms part of the boundary of a parish, both fences of the road must be shown, and it will be desirable also to mark the abutments of other fences upon the outer fence of the road. Road.

(*a*) This must be determined in the contract actually entered into and agreed upon between the surveyor and the board of guardians.

Rivers. The same remark will apply to rivers generally, in Lincolnshire and other fen districts, to droves, and the drains by which they are bounded.

Fields divided by the parish boundary. When a parish boundary passes through a field or other inclosure, without being defined by a fence, the whole of such field or inclosure should be shown on the plan, with the parish boundary (marked by a dotted line), passing through it. The area of the included portion only of such field or inclosure will appear in the book of reference; but the area of the excluded portion should be given on the plan, and be marked as belonging to the adjoining parish.

Fences. In all cases of fences, the actual boundary line of the adjacent properties is to be marked upon the plan, whether it be the central line or the side of a hedge, ditch, wall, bank, &c.; and when the fence belongs entirely to one property or the other, that should be indicated by the proper mark.

Admeasurement. It is essential that the accuracy of the plan, when completed, should be such that the admeasurement on the plan of the inclosures therein represented should correspond with the quantities assigned to them in the book of reference, and such also as to bear the test of the comparison of any proof lines which it may be deemed proper to have measured upon the ground.

Testing.

THE SECOND SCHEDULE TO THE CONTRACT,

CONTAINING THE REGULATIONS WHICH APPLY TO THE VALUATION.

1	2	3	4	5	6	7	8	9	10		
Name or Situation of each Field or Parcel of Property.	Description or Mode of Cultivation of each Field or Parcel of Property.	No. on Map (if there be any).	Quantity of each Field or Parcel of Property.	Total Quantity in each Holding which is separately rated.	Gross estimated Rental of each Holding which is separately rated.	Rateable Value of each Holding which is separately rated.	Name or Situation of each Holding which is separately rated.	Description of each Holding which is separately rated.	Name of Occupier of each Holding which is separately rated.		

Signed_____ Surveyor and Valuer.

this_____ day of_____ 18—.

NOTES ON FORM OF VALUATION.

It may be useful to observe, with reference to the columns in the form for the valuation book, that the columns 1, 2, 3 and 4, will necessarily be taken from the book of reference connected with the plan (if there be a plan), and that the churchwardens and overseers in making out a rate will only have to deal with columns 5, 6, 7, 8, 9 and 10, which they can copy into the rate book.

The surveyor is not required to put in the name of the owner, as that must be supplied in the rate book by the overseers, according as claims are put in by owners or proxies under the Poor Law Amendment Act, 1834.

The column, headed "Gross estimated rental," must be filled up with the estimated value of the holding, calculated on an estimate of the rent at which the same might reasonably be expected to let from year to year, free of all usual tenant's rates and taxes, and the tithe commutation rent-charge (if any). 25 & 26 Vict. c. 103, s. 15.

The column, headed "Rateable value," must be filled up thus:—From the gross rental, ascertained as above, must be deducted the probable average annual costs of the repairs, insurance, and other expenses (if any), necessary to maintain the property in a state to command such rent. 6 & 7 Will. 4, c. 96, s. 1.

The Surveyor will be required, since the 27 & 28 Vict. c. 39, s. 4, to show the particulars of the several hereditaments comprised in the valuation, and the amounts at which he had valued the same. He must therefore insert the value of each field or parcel in one holding.

APPENDIX.

II.

OTHER STATUTES ON THE SUBJECT OF THE RATEABILITY OF PROPERTY

4 Geo. 4, c. 126.

An Act to amend the general Laws now in being for regulating Turnpike Roads in that part of Great Britain called England. [6th Aug. 1882.]

Sect. 51. No tolls to be taken at any gate erected or to be erected by the trustees or commissioners of any turnpike road nor toll-house erected, or to be erected, for the purpose of collecting the same, nor any person in respect of such tolls or toll-house shall be rated or assessed towards the payment of any poor's rates, or any other public or parochial levy whatsoever.

3 & 4 Will. 4, c. 30.

An Act to exempt from Poor and Church Rates all Churches, Chapels, and other Places of Religious Worship. [July 24, 1833.]

No person liable to be rated for places ex-

1. "WHEREAS, it is expedient that churches, chapels, and other places exclusively appropriated to public religious worship, should be exempt from the payment

of poor and church rates:" Be it therefore enacted, that from and after the 1st day of October, 1833, no person or persons shall be rated or shall be liable to be rated, or to pay to any church or poor rates or cesses, for or in respect of any churches, district churches, chapels, meeting-houses, or premises, or such part thereof as shall be exclusively appropriated to public religious worship, and which (other than churches, district churches, and episcopal chapels of the Established Church) shall be duly certified for the performance of such religious worship according to the provision of any Act or Acts now in force. exclusively appropriated to public religious worship.

Provided always that no person or persons shall be hereby exempted from any such rates or cesses for or in respect of any parts of such churches, district churches, chapels, meeting-houses, or other premises which are not so exclusively appropriated, and from which parts not so exclusively appropriated such person or persons shall receive any rent or rents, or shall derive profit or advantage. Proviso respecting places not so exclusively appropriated.

2. Provided always, and be it enacted, that no person or persons shall be liable to any such rates or cesses because the said churches, district churches, chapels, meeting-houses, or other premises, or any vestry-rooms belonging thereto, or any part thereof, may be used for Sunday or infant schools, or for the charitable education of the poor (*a*). Persons not liable to rates because part of premises may be used for schools.

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3 & 4 Vict. c. 89.

As to the rating of stock-in-trade, is printed at page 135.

(*a*) See further 32 & 33 Vict. c. 40, *post*, as to Sunday schools.

4 & 5 Vict. c. 48.

An Act to render certain Municipal Corporations rateable to the relief of the Poor in certain cases.

[June 21, 1841.]

1. "WHEREAS, the municipal corporations of cities and boroughs named in the Schedules (A.) and (B.) annexed to the Act passed in the sixth year (*a*) of the reign of King William the Fourth, to provide for the regulation of municipal corporations in England and Wales, have been held (*b*) not to be liable by law to be rated to the relief of the poor in respect of any lands, tenements, and hereditaments, being the properties and in the occupation of such municipal corporations, by reason that the income arising therefrom is applicable to public purposes only; and it is expedient that such municipal corporations should, nevertheless, in some cases be rateable and be rated to the relief of the poor in respect of such property: Be it therefore enacted, that the said municipal corporations named in the said schedules shall, from and after the passing of this Act, be rateable and be rated to the relief of the poor in respect of lands, tenements, and hereditaments, being the property and in the occupation of such municipal corporations, as if such lands, tenements, and hereditaments were not corporate property, any law, usage, or custom to the contrary notwithstanding (*c*).

Certain municipal corporations to be rated to the poor.

(*a*) 5 & 6 Will. 4, c. 76.

(*b*) This was held in *Reg.* v. *Liverpool*, 9 A. & E. 435; S. C. 1 Lum. P. L. C. 102; *Reg.* v. *Exminster*, 12 A. & E. 2; S. C. 2 Lum. P. L. C. 75.

(*c*) In consequence of the institution of the common fund in

2. And be it enacted, that any of the said municipal corporations, being in the occupation of such lands, tenements, and hereditaments, as are hereinbefore described, shall be deemed and taken to be beneficial (*d*) occupiers thereof, for all the purposes of rating, as if such occupation was for their own private advantage, and not for any public purposes or purpose, and shall be liable to be rated as such occupiers by their corporate style and title. The said corporations to be deemed beneficial occupiers.

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6 & 7 Vict. c. 36.

An Act to exempt from County, Borough, Parochial, and other Local Rates, Land and Buildings occupied by Scientific or Literary Societies (*e*).

[July 28, 1843.]

"WHEREAS, it is expedient that societies established exclusively for purposes of science, literature, or the fine arts, should be exempt from the charge of county, borough, parochial, and other local rates in respect of lands and buildings occupied by them for the transaction of their business, and for carrying into effect their purposes:" Be it therefore enacted, Scientific societies

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unions the proviso to this section, which exempted the property of municipal corporations from being rated to the relief of the poor in the cases therein mentioned, was repealed by 39 & 40 Vict. c. 61, s. 30.

(*d*) This was apparently a statutory recognition of the doctrine of the courts of law which introduced the term beneficial into the statute 43 Eliz. c. 2, whereby the poor rate was enacted, which doctrine has since been reversed.

(*e*) See upon this statute the Introduction to Lumley's Edition of the Literary and Scientific Institutions Act, 1854.

exempted from rates upon obtaining the certificates hereinafter mentioned.

that from and after the first day of October, 1843, no person or persons shall be assessed or rated, or liable to be assessed or rated, or liable to pay, to any county, borough, parochial, or other local rates or cesses, in respect of any land, houses, or buildings, or parts of houses or buildings, belonging to any society instituted for purposes of science, literature, or fine arts, exclusively, either as tenant or as owner, and occupied by it for the transaction of its business, and for carrying into effect its purposes;

Provided that such society shall be supported wholly or in part by annual voluntary contributions and shall not, and by its laws may not, make any dividend, gift, division, or bonus in money unto or between any of its members;

And provided also that such society shall obtain the certificate of the barrister-at-law or lord advocate, as hereinafter mentioned (*a*).

(*a*) The statute does not exempt the property itself, but the persons who represent the society, and no means are provided by the Act for the certificate reaching the overseers when it has been granted. Hence, if the society be assessed after the certificate has been obtained, the society should appeal. It is too late to take this objection when the representatives of the society are summoned before the justices for the non-payment of the rate: *Reg.* v. *The Justices of Birmingham*, 3 N. S. C. 445; 18 L. J. R. M. C. 83; 13 Jur. 357; 10 Q. B. 868.

An institution for the collection and maintenance of a library of books for the use of the members and of persons who subscribed for the occasion only, is a society for the purpose of literature within this Act: *Ib.* In this case, however, the library was open to every one who chose to subscribe. In *Bradford Library Society* v. *Bradford Overseers*, 1 E. & E. 88; 28 L. J. M. C. 73, the number of subscribers was limited, but the building was held to be exempted by this Act.

The Linnæan Society, incorporated for the cultivation of the science of natural history in all its branches, and for the promotion of every kind of improvement in arts and sciences, was admitted to be exempt: *Linnæan Society of London* v. *St. Anne's*,

Westminster, 23 L. J. R. M. C. 148; 18 Jur. 859; 3 E. & B. 793.

So also the Zoological Society, incorporated for the advancement of zoology and animal physiology, and the introduction of new and curious subjects of the animal kingdom, was within the description above: *Reg.* v. *The Zoological Society of London*, 23 L. J. R. M. C. 139; 18 Jur. 786; 3 E. & B. 807.

But a society established to promote the education of the labouring classes, by providing a training-school for masters and a model school for poor children, is not exempt, the purpose not being for science or literature: *Reg.* v. *Pocock*, 3 N. S. C. 372; 10 Jur. 662; 15 L. J. R. M. C. 132; 8 Q. B. 729. Neither is a society established for the purpose of propagating the Christian religion, by distributing tracts and treatises on religious subjects: *Reg.* v. *Jones*, Ib. 382; 10 J. P. 531; 10 Jur. 613; 15 L. J. R. M. C. 129; 8 Q. B. 719. Neither is a society established for the elevation of the adult operative population, as it regards their physical, intellectual, moral, and religious condition: *Reg.* v. *St. Martin's in the Fields*, 26 L. T. 121; 25 L. J. M. C. 42; 5 E. & B. 558.

Music is one of the fine arts within this Act: *Reg.* v. *Brandt*, *ubi infra*. The art of war is not, however, within it: *Reg.* v. *Cockburn*, *ubi infra*.

The primary object and purpose must be looked to. Hence, a concert-hall, built and supported by subscription, which was used for the purpose of concerts open to the subscribers and persons admitted by tickets issued to the subscribers, was held not exempt, because the purpose of the society was not exclusively the advancement of the art of music, but also the amusement of the members: *Reg.* v. *Brandt*, 3 N. S. C. 494; 15 Jur. 223; 20 L. J. R. M. C. 119. The amusement and personal benefit of the members of the Zoological Society rendered it not exempt: *Reg.* v. *The Zoological Society of London*, *ubi supra*.

The application of part of the premises, intended as a library or place of science, to the reading of newspapers and other periodical publications of a like nature, prevents the exemption: *Reg.* v. *Gaskell*, 16 Q. B. 472; 21 L. J. R. M. C. 29; 15 Jur. 1156; *Russell Institution* v. *St. Giles-in-the-Fields*, 18 Jur. 597; 23 L. J. R. M. C. 65; 3 E. & B. 416; *Purchas* v. *Holy Sepulchre, Cambridge*, 24 L. J. R. M. C. 9; 4 E. & B. 156.

An institution, which comprised a museum of natural history, curiosities, and armour, a library, lecture-room, and rooms for the meetings of the members and council, which was declared to be instituted as a central repository of objects of professional art, science, and natural history, and books and documents relating to those studies (namely, those of war), or containing general information, and the delivery of lectures on appropriate subjects, and

whose members were officers in the army or navy, or eminent individuals, benefactors and contributors to the institution, was held not to be exempt: *Reg.* v. *St. Martin-in-the-Fields*, 16 Jur. 335; S. C. *Reg.* v. *Sir G. Cockburn*, 16 Q. B. 481.

Not only the general purpose of the institution must be for science, literature, and the fine arts exclusively, but the premises must be used for such purpose exclusively. Hence, a building, used principally as a mechanics' institution, but of which the rooms were occasionally let for concerts, lectures, and public meetings, was held to be not exempt, as the whole of the premises was not used exclusively for scientific purposes: *Purvis* v. *Trail*, 18 L. J. R. M. C. 57; 3 N. S. C. 459; 3 Exch. Rep. 344. For a like reason, a subscription library, open only to the members of the society, was held not exempt, because a part of the premises was let off to another scientific society: *Earl of Clarendon* v. *St. James, Westminster*, 20 L. J. R. M. C. 213; 4 N. S. C. 639; 10 C. B. 806.

If there be a part of the premises let off to other persons, for which they can be assessed, the exemption is not prevented: *The Linnæan Society* v. *St. Anne, Westminster, ubi supra; Reg.* v. *Brandt, ubi supra.* The occupation by the librarian or housekeeper of the institution does not affect the exemption: *Ib.* Neither will the accidental use of the premises for charitable purposes, though profit be gained thereby, prevent it: *Reg.* v. *Brandt.*

As to what are voluntary contributions, several cases must be referred to. Thus, where the rules of a society required a payment of two guineas on admission, and an annual sum of 1*l.* in advance for the expenses of the current year, and that the rights and privileges of the members should continue only so long as the subscription was annually paid; it was held, that the society was supported by annual voluntary contributions within the meaning of these words: *Reg.* v. *The Justices of Birmingham*, 18 L. J. M. C. 89; 3 N. S. C. 445; 13 Jur. 357; 10 Q. B. 868; 13 J. P. 395; *The Linnæan Society* v. *St. Anne, Westminster; Bradford Library* v. *Bradford Overseers, ubi supra.* The gratuitous distribution of the copies of the printed transactions of the society does not prevent the contributions from being voluntary. But private advantages or conveniences, which result to the member in return for his contribution, though not amounting to pecuniary profit, prevent the same from being voluntary within the meaning of this Act: *Reg.* v. *The Zoological Society of London, ubi supra.* See also the judgment of the Court of Queen's Bench in *The Russell Institution* v. *St. Giles in the Fields, ubi supra*, as to the meaning of the word "contribution."

So also a joint-stock library, held by shareholders, whose shares might increase in value, but where no benefit was to accrue to any one of them, was held to be exempt: *Liverpool Library*, app., *Corporation of Liverpool*, resp., 5 Exch. (N. S.) 526; 29 L. J. R. M. C. 229.

Scientific societies to cause three copies of their rules of management to be submitted to the barrister or person appointed to certify the rules of friendly

2. Provided always and be it enacted, that before any society shall be entitled to the benefit of this Act, such society shall cause three copies of all laws, rules, and regulations for the management thereof, signed by the president or other chief officer and three members of the council or committee of management, and countersigned by the clerk or secretary of such society, to be submitted, in England, Wales, and Berwick-upon-Tweed, to the barrister-at-law for the time being appointed to certify the rules of friendly societies there (*a*);

The existence of this law is a condition precedent to the exemption, and therefore it is not enough that, in fact, the members can derive no benefit from the institution: *Reg.* v. *Phillips*, 3 N. S. C. 134; 8 Q. B. 745; 42 Jur. 431; 17 L. J. R. M. C. 83; *Reg.* v. *Jones*, *ubi supra*.

An institution founded for the promotion of literature, the fine arts, and science, was held not deprived of exemption by reason of the following facts:—1. That the trustees had power to let off a part of the premises not required for the use of the institution, for which part no exemption was claimed; 2. That a commission was claimed by the society upon the sale of pictures sold in their rooms, to defray the expenses incidental to the exhibition thereof, but which produced no profit to the society; 3. That the deed of trust provided that the building was to be used *inter alia* for the diffusion of education and knowledge consistent with the general purposes of the institution; 4. That strangers who entered to see the pictures paid a fee on admission, which was applied to the general purposes of the institution. Lastly, that the deed declared that on a dissolution of the society, the property should be sold, and the proceeds, after payment of the debts, should be divided among its members: *Reg.* v. *Manchester*, 4 N. S. C. 483; 15 Jur. 219: 20 L. J. R. M. C. 113; 16 Q. B. 449.

"Purposes of science" means purposes of science in the abstract and not the application of science to professional purposes: *Reg.* v. *Institution of Civil Engineers*, L. R. 5 Q. B. D. 48. But see *Reg.* v. *Royal Medical Society*, 30 L. T. (o.s.) 133; 21 J. P. 789, whose premises were held to come within the Act.

(*a*) See sect. 2. Although the certificate of the barrister or lord advocate is required to complete the exemption, it has been decided in various cases, that, whether appealed against or not, it does not conclude parties interested in disputing the exemption, "inasmuch as it does not establish the exemption, but only shows that according to his opinion the society comes

societies, who shall certify thereon if entitled.

And in Scotland to the lord advocate, or any deputy appointed by him to certify the rules of friendly societies there;

And in Ireland to the barrister for the time being appointed to certify the rules of friendly societies there;

For the purpose of ascertaining whether such society is entitled to the benefit of this Act;

And such barrister or lord advocate, as the case may be, shall give a certificate on each of the said copies that the society so applying is entitled to the benefit of this Act, or shall state in writing the grounds on which such certificate is withheld;

One certified copy to be returned to the society; one to be retained by the barrister, and the other transmitted to the clerk of the peace, for confirmation at sessions, and to be deposited.

And one of such copies, when certified by such barrister or lord advocate, shall be returned to the society: another copy shall be retained by such barrister or lord advocate, and the other of such copies shall be transmitted by such barrister or lord advocate to the clerk of the peace for the borough or county where the land or buildings of such society in respect of which such exemption is claimed shall be situated, and shall by him be laid before the recorder or justices for such borough or county at the general quarter sessions, or adjournment thereof, held next after the time when such copy shall have been so certified and transmitted to him as aforesaid;

And the recorder or justices then and there present are hereby authorized and required, without motion, to allow and confirm the same;

And such copy shall be filed by such clerk of the peace with the rolls of the sessions of the peace in his custody, without fee or reward (*a*).

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within the description of the exemptions:" Per Lord DENMAN, C. J., in *Reg.* v. *Pocock;* and see *Reg.* v. *Phillips, ubi supra.*

(*a*) It will be seen that no copy is to be sent to the officers of the parish, whom it concerns more than any other authority.

3. And be it enacted, that if the laws, rules, and regulations of any such society shall be altered, so as to affect or relate to the property or constitution of such society, such alterations shall, within one calendar month after the same shall have been made, be submitted to such barrister or lord advocate, and such barrister or lord advocate shall certify as aforesaid; and such rules, when so certified, shall be filed with the clerk of the peace as aforesaid; Certain alterations made in the rules to be certified and deposited in like manner.

And in the meantime such society shall be entitled to the benefit of this Act, as if no such alteration had been made;

Provided always, that if the said barrister or lord advocate shall refuse to certify, that then, subject to such appeal as is hereinafter provided, the said society shall cease to be entitled to the benefit of this Act, from the time when such alterations shall come into operation. In case of refusal to certify.

4. Provided always, and be it enacted, that the fee payable to such barrister or lord advocate for perusing the laws, rules, and regulations of each society, or the alterations made therein, and giving such certificate or statement as aforesaid, shall not at any one time exceed the sum of one guinea; Fee to be paid to the barrister or lord advocate.

Which, together with the expense of transmitting the rules to and from the said barrister or lord advocate, shall be defrayed by each society respectively.

5. Provided always, and be it enacted, that in case any such barrister or lord advocate shall refuse to certify that any such society is entitled to the benefit of this Act, it shall then be lawful for any such society to submit the laws, rules, and regulations thereof to Provision in cases where certificate is refused.

the court of quarter sessions for the borough or county where the land or buildings of the society shall be situated, together with the reasons so assigned by the said barrister or lord advocate as aforesaid;

And the recorder or justices at such quarter sessions shall and may, if he or they think fit, order the same rules to be filed, notwithstanding such refusal as aforesaid (*a*).

And such filing shall have the same effect as if the said barrister or lord advocate had certified as aforesaid.

Appeal to the quarter sessions.

6. Provided also, and be it enacted, that any person or persons assessed to any rate from which any society shall be exempted by this Act, may appeal from the decision of the said barrister or lord advocate in granting such certificate as aforesaid to the said court of quarter sessions, within four calendar months next after the first assessment of such rate made after such certificate shall have been filed as aforesaid, or (*b*) within four calendar months next after the first assessment of such rate made after such exemption shall have been claimed by such society, such appellant first giving to the clerk or secretary of the society in question, twenty-one days previously to the sitting of the said court (*c*), notice in writing of his intention to

(*a*) It will be seen that this proceeding is quite *ex parte*, and probably it cannot be opposed, as the next clause provides for the appeal against the certificate after the same has been filed. Nevertheless, the court may exercise their discretion in the matter, and investigate the application on their own judgment.

(*b*) This clause gives an alternative of two periods for the appeal, which may be either within the time specified after the filing of the certificate, or within that after the claim of exemption; *Reg.* v. *Pocock*, *ubi supra*.

(*c*) These words will doubtless be interpreted as signifying the first day of the sessions. However, the enactment itself is affected

bring such appeal, together with a statement in writing of the grounds thereof (*d*), and within four days after such notice entering into a recognizance before some justice, with two sufficient sureties (*e*), to try such appeal at and abide the order of and pay such costs as shall be awarded by the recorder or justices at such quarter sessions;

And at such quarter sessions such recorder or justices shall, on its being proved that such notice and statement have been given as aforesaid, proceed to hear such appeal, according to the grounds set forth in such statement, and not otherwise;

And if the certificate of the said barrister or lord advocate shall appear to him or them to have been granted contrary to the provisions of this Act, shall and may annul the same (*f*), and shall and may, according to their discretion, award such costs to the party appealing or appealed against as he or they shall think proper (*g*);

And his or their determination concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever.

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by the 12 & 13 Vict. c. 45, s. 1, which renders fourteen clear days' notice of appeal sufficient in every case of appeal to the quarter sessions such as the present.

(*d*) See also the 12 & 13 Vict. c. 45, as to this statement, and the power of amending the same.

(*e*) As to these recognizances and their amendment, if necessary, see 12 & 13 Vict. c. 45, s. 8.

(*f*) There is no provision that the certificate may be confirmed if the court should think proper, because that has already taken place, and the only object of the appeal is to procure its annulment, if possible.

(*g*) See 12 & 13 Vict. c. 45, s. 5.

13 & 14 Vict. c. 99.

An Act for the better Assessing and Collecting the Poor Rates and Highway Rates in respect of Small Tenements. [14 Aug. 1850.]

This Act has been repealed by the 32 & 33 Vict. c. 41, s. 6, *post*, and is therefore now omitted.

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16 & 17 Vict. c. 97

An Act to consolidate and amend the Laws for the Provision and Regulation of Lunatic Asylums for Counties and Boroughs, and for the Maintenance and Care of Pauper Lunatics, in England. [20th Aug., 1853.]

Sect. 35. No lands or buildings already or to be hereafter purchased or acquired under the provisions of any former Act or this Act, for the purposes of any (lunatic) asylum (with or without any additional building erected or to be erected thereon), shall, while used for such purposes, be assessed to any county, parochial, or other local rates, at a higher value or more improved rent than the value or rent at which the same were assessed at the time of such purchase or acquisition (*a*).

(*a*) Where the committee of a county lunatic asylum purchased 30 acres of land, which they cultivated, with the assistance of the pauper lunatics, as a garden, and also received into the asylum paupers from other counties and a few private patients, and a considerable profit was annually derived from the asylum, it was held that, notwithstanding, the asylum came within the operation of this enactment and therefore was not assessable on the higher scale: *Cambridge Pauper Lunatic Asylum* v. *Fulbourn*, 12 L. T. (N. S.) 344; 34 L. J. M. C. 106; 6 B. & S. 451.

17 & 18 Vict. c. 104.

An Act to amend and consolidate the Acts relating to Merchant Shipping. [10th Aug., 1854.]

Sect. 430. All lighthouses, buoys, beacons, and light dues, and all other rates, fees, or payments accruing to or forming part of the Mercantile Marine Fund and all premises or property belonging to or occupied by any of the general lighthouse authorities or the board of trade, which are used or applied for the purpose of any of the services for which such dues, rates, fees, and payments are received * * * shall be exempted from all public, parochial, and local taxes, duties, and rates of every kind.

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17 & 18 Vict. c. 105.

An Act to amend the Law relating to the Militia in England and Wales. [11th Aug., 1854.]

Sect. 1 repeals certain sections of the 16 & 17 Vict. c. 116.

Sect 2 provides for militia storehouses, and enacts,—no place provided for the keeping of militia stores, under this or the recited Act, nor any buildings or premises appurtenant thereto, shall be liable to be assessed to any county, borough, parochial, or other rates or assessments.

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18 & 19 Vict. c. 128.

An Act further to amend the Laws concerning the Burial of the Dead in England.

[14th Aug., 1855.]

The preamble recites 15 & 16 Vict. c. 85; 16 & 17 Vict. c. 134, and 17 & 18 Vict. c. 87.

Sect. 15. No land already, or to be hereafter purchased or acquired under the provisions of any of the Acts hereinbefore recited for the purpose of a burial ground (with or without any building erected or to be erected thereon), shall, while used for such purposes, be assessed to any county, parochial, or other local rates, at a higher value or more improved rent than the value or rent at which the same was assessed at the time of such purchase or acquisition.

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23 & 24 Vict. c. 112.

An Act to make better provision for acquiring Lands for the Defence of the Realm. [28th Aug., 1860.]

Sect. 33. The lands vested in the secretary of war, in pursuance of this Act, which before the time of such vesting were liable to and charged with poor rate, shall continue chargeable therewith, but shall not be assessed to any tax or rate at a higher value or rent than that at which such lands were assessed at the time of such vesting.

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25 & 26 Vict. c. 103.

An Act to amend the Law relating to Parochial Assessments in England. [7th Aug., 1862.]

"WHEREAS it is expedient that more effectual provision should be made for securing uniform and correct valuations of parishes in the unions of England:" Be it enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Interpretation.

1. The words used in this Act shall be construed in like manner as the words contained in the Act fourth and fifth of King William the Fourth, chapter seventy-six, and the word "Committee" shall signify the Assessment Committee provided for by this Act; and this Act shall be termed "The Union Assessment Committee Act, 1862."

Appointment of the assessment committee by board of guardians.

2. The board of guardians of every union, formed under the Act fourth and fifth years of King William the Fourth, chapter seventy-six, shall, as soon as convenient after the passing of this Act and in every subsequent year, at their first meeting after the annual elections of guardians, appoint from among themselves any number not less than six nor more than twelve to be a committee, consisting partly of *ex-officio* and partly of elected guardians, to be called the Assessment Committee of the Union, for the investigation and supervision and valuations to be made as hereinafter mentioned within such union, and for the performance of such (said) acts and duties as hereinafter mentioned: *&c.* Provided always, that one-third at least of such com-

mittee shall consist of *ex-officio* guardians, in case there shall be an adequate number of such *ex-officio* guardians; but in case an adequate number of such *ex-officio* guardians shall not exist, then the number so deficient shall be made up of elected guardians.

Where union has the same bounds as borough, names of assessment committee to be transmitted to town council, who may appoint additional members.

3. [*] Where any union shall have the same bounds as a municipal borough, the clerk to the guardians of such union shall, upon the appointment of the Assessment Committee, if directed by the said guardians to do so, transmit in writing the names of the persons so appointed to the town council of such borough, and such council may thereupon, if they think fit, appoint from themselves a certain number, not exceeding the number appointed by the board of guardians, who shall, until they respectively cease to be members of the town council or decline to act, forthwith form part of the Assessment Committee for such union, and the said council may from time to time supply any vacancies in the number of persons appointed by them.

Provision for neglect to appoint.

4. If the guardians shall neglect or be prevented from making such appointment at the meeting above specified, the Poor Law Board shall, by their order, appoint some other day on which the guardians shall make such appointment.

Provision for vacancies

5. If any *ex-officio* or elected guardian being a member of the committee cease to be a guardian, or resign his seat at such committee, or die, or become incapable of acting as such member, the board of guardians shall with all convenient speed appoint an *ex-*

[*] The sections of this Act which are thus marked are repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77, and sched. *post.*

officio or elected guardian, as the case may be, to supply the vacancy.

Continuing members may act during vacancies.

6. During any vacancy in any assessment committee the other or continuing members of such committee may act, and shall have the same powers and jurisdiction as if no such vacancy had happened.

Extent of committee's authority.

7. The authority of the committee appointed for any union under this Act shall extend over every parish comprised in such union.

First meeting, when to be holden.

8. The committee shall hold their first meeting at the board-room of the union on a day to be fixed by the board of guardians, and the subsequent meetings of the committee shall be holden at such times and at such place and upon such notice and requisition as they shall from time to time appoint; and any guardian of the union may be present at any meeting of the committee, but shall not be entitled to take part in the proceedings thereof.

Quorum of meetings.

9. All acts, orders, matters, and things by this Act authorized or directed to be made or done by the committee, may be made or done by the major part of the members of such committee who shall be present at a meeting, the whole number present together at such meeting not being less than three, and not less in any case than one-third of the whole number of which such committee consists; and when upon any question there shall be an equality of votes the presiding chairman shall have a second or casting vote.

Committee may employ and pay clerk.

10. The committee shall employ the clerk or assistant clerk of the board of guardians as their clerk, with such remuneration for his services as the Poor Law Board shall sanction.

Proceedings to be entered in books and signed;

11. The committee shall cause a minute of their proceedings, and of the names of the members who attend each meeting, to be duly made from time to time in books to be provided for that purpose, which shall be kept by the clerk, under their superintendence, and every such entry shall be signed by the presiding chairman of the assessment committee present at the meeting at which the proceeding took place; and such entry, purporting to be so signed, shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being members of the committee, or of the signatures of the members, all of which facts shall be presumed until the contrary be proved; and all such books shall at all reasonable times be open to the inspection of every person rated to the relief of the poor in any parish or place in the union, without any fee being demanded for such inspection; and all such persons shall be entitled at all seasonable times to take copies or extracts from the said books without paying any fee for the same, and if, on request made for that purpose, the clerk of the committee refuse to permit any such person to inspect any such books, or to take copies or extracts therefrom, as aforesaid, such clerk shall for every such offence be liable to a penalty not exceeding five pounds, upon a summary conviction for the same before two justices of the peace.

Such entries evidence.

Books to be open to inspection.

Proceedings of committees to be reported.

12. The board of guardians shall in the month of April in every year report the proceedings of their assessment committee to the Poor Law Board.

Committee may require re-

13. The committee by their order may, from time to time require the overseers, assistant overseers, con-

stables, assessors, collectors, and any other persons having the custody of any books of assessment of any taxes or rates, parliamentary or parochial, or of the valuations of any parish, or having the collection or management of any such taxes or rates, to make returns in writing to the committee, at such times and places as they may appoint, of all such particulars as they may direct in relation to such taxes, rates, or valuations, or any property included therein so far as relates to the union for which they act, and may require the persons having the custody of any books as aforesaid to make and transmit to the committee copies of or extracts from such books, or to permit such copies or extracts to be made by such persons as the committee may in that behalf direct (*a*); and may from time to time require any persons having the custody of any such books, or the collection or management of any such taxes or rates as aforesaid, to attend before them at a time and place to be mentioned in the order in this behalf, and to produce all parochial and public books of assessment, rates, rate books, valuations, apportionments, tithe and other maps, plans, surveys, and other public documents in their custody or power, and may examine all persons who shall attend before them: Provided always, that nothing herein contained shall authorize the production of valuations or assessments which by any provision of law at present are not suffered to be made public.

Returns from overseers, &c.;

And may require production of rates, &c., and examine persons attending before them.

14. [*] Subject to any order as hereinafter referred to which may be made by the committee, the overseers of each parish in the union, shall, within three calendar months after the appointment of such committee, make a list of all the rateable hereditaments in such parish

Overseers to prepare valuation lists.

(*a*) See 26 & 27 Vict. c. 33, s. 22, *post.*

with the annual value thereof respectively, in so much of the form shown in the schedule annexed to the Act sixth and seventh William the Fourth, chapter ninety-sixth, as is set out in the schedule to this Act; and unless such overseers think that the valuation then last acted upon in assessing the rate for the relief of the poor correctly shows the full annual rateable value of all such hereditaments, they shall revise such valuation, and such overseers shall sign every list so made by them as aforesaid, and such list shall be styled "The Valuation List."

Definition of gross estimated rental.

15. [*] The gross estimated rental for the purpose of the schedule to this Act shall be the rent at which the hereditament might reasonably be expected to let from year to year, free of all usual tenant's rates and taxes, and tithe commutation rentcharge, if any: Provided that nothing herein contained shall repeal or interfere with the provisions contained in the first section of the said Act (six and seven William the Fourth, chapter ninety-six), defining the net annual value of the hereditaments to be rated.

Committee may enlarge the time for making valuation lists, and may give directions concerning valuations and valuation lists, and may appoint persons to make the same.

16. The committee by their order may from time to time enlarge the time within which the first valuation lists under this Act shall be made by the overseers of all or any of the parishes in the union, and for ensuring a uniform and correct valuation of every parish in the union may direct that any existing valuation of the rateable hereditaments in any parish be revised, in whole or in part, or a new valuation of such hereditaments be made by the overseers, or the committee may, with the consent of the board of guardians of the union, after notice shall have been sent to every guardian thereof, in any case appoint some person for either of the purposes aforesaid, and may direct such person to

make and sign the valuation list instead of the overseers, and every valuation list so made and signed shall be delivered by such person to the overseers of the parish to which the same relates.

Valuation lists to be deposited for inspection, and afterwards transmitted to the committee.

17. The valuation list for each parish, made and signed by the overseers, or delivered to them, as hereinbefore provided, shall be deposited by the overseers in the place in such parish in which rate books are deposited or kept, and a copy of such valuation list shall be forthwith delivered to the board of guardians, and the overseers shall give public notice of the deposit of such list on the Sunday next following the deposit of such list, and such notice shall be given in the same manner, and all persons assessed or liable to be assessed to the relief of the poor of such parish shall have the like right of inspecting, and of demanding and taking copies of and extracts from such list, as in the case of a poor rate allowed by the justices, and the overseers shall, at the expiration of fourteen days from the time of the notice given of the deposit of such list, transmit the same to the committee, and any overseer or other ratepayer within the union shall have the right of inspecting and taking copies of and extracts from any of the lists so transmitted.

Objections to valuation list.

18. Any overseer or overseers of any parish in any union who shall have reason to think that such parish is aggrieved by the valuation list of any parish within such union, or any person who shall feel himself aggrieved by any valuation list on the ground of unfairness or incorrectness in the valuation of any hereditaments included therein, or on the ground of the omission of any rateable hereditament from such list, may at any time after the deposit as aforesaid of such list, and before the expiration of twenty-eight days

after the notice of the deposit as aforesaid, give to the committee and to the overseers a notice in writing of his objection, specifying the grounds thereof, and where the ground of any objection shall be unfairness or incorrectness in the valuation of any hereditament in respect of which any person other than the person objecting, is liable to be rated, or the omission of such hereditament, also give notice in writing of such objection, and of the ground thereof, to such other person.

Committee to hold meetings to hear objections.

19. The committee shall hold such other meetings as they may think necessary for hearing objections to the valuation lists, and shall, twenty-eight days at least before holding every meeting for hearing objections to valuation lists, other than meetings by adjournment, cause notice of such meeting to be given to the overseers of the several parishes to which such lists relate, and such overseers shall, on the Sunday next following the receipt of such notice, publish the same in the manner in which notice of a rate allowed by justices is by law required to be given, and the committee may at any such meeting hear and determine such objections, or may from time to time adjourn any such meeting, and adjourn or postpone the hearing or further hearing and determination of any such objections, and may, where they think fit, direct notice of any such objections to be given by the overseers or by the persons objecting to third parties before the further hearing thereof; but the committee shall not be required to hold a meeting for hearing objections to the valuation list of any parish, unless such notice in writing as hereinbefore mentioned of some objection or objections thereto have been given to the committee; and where a meeting is holden for hearing objections to the valuation list of any parish, the committee shall not hear any objection to such valuation list unless such notice

as aforesaid of such objection have been given to the committee and to the overseers; and where the ground of such objection is unfairness or incorrectness in the valuation of any hereditament of any other person than the person objecting, or the omission of such hereditament, also to such other person by the person objecting, except where the overseers, by themselves or any other person on their behalf, and in the case aforesaid such other person as aforesaid, by himself or any other person on his behalf, consent to the hearing of such objection, and in such case the committee may, if they see fit, hear the same; and where the committee see fit to hear the same they shall act in relation thereto in like manner as if notice of such objection had been given.

Board may direct further valuation and correct valuation lists, and when corrected to approve the same.

20. The committee may, whether any objection be or be not made to any such valuation list, and either before or after any meeting for hearing objections, make such alterations in the valuation of any hereditaments included in any valuation list, and insert therein any rateable hereditament omitted therefrom, and make such corrections in names, descriptions, and particulars in any valuation list, and upon such information as to them may seem sufficient (*a*), and may with the consent of the guardians as aforesaid, appoint or employ a person to survey and value the rateable hereditaments comprised in any such valuation list or any of them, or omitted therefrom, or may take such other means as they may think necessary for ascertaining the correctness thereof; and when the committee have heard and determined all such objections as aforesaid, and have made such alterations, insertions, and corrections in any

(*a*) See the power of appointing a surveyor as an assessor to the committee, given by 31 & 32 Vict. c. 122, s. 32, *post.*

valuation list as to them may seem proper, they shall approve the same under the hands of three members of the committee present at the meeting at which the same is approved, with the date of such approval.

Valuation list when altered to be deposited, &c.

21. Where the committee make any alteration in the valuation of any hereditaments included in, or insert therein any rateable hereditament omitted from, any such valuation list, they shall cause such valuation list, with such alteration or insertion, to be deposited for inspection in manner hereinbefore provided concerning the valuation list made by or delivered to the overseers, and shall cause the like notice to be given of such deposit as is required in the case of a valuation list so made or delivered as aforesaid, and shall appoint a day, not less than seven days nor more than fourteen days from the re-deposit of such valuation list, for the hearing of any objections to the valuation list as so altered; and when the committee have heard and determined any such objections, or have made such further alterations, insertions, and corrections in such valuation list, they shall approve the same in the manner hereinbefore provided.

If on appeal a rate is amended the valuation list to be altered.

22. [*] In case any ratepayer shall under the existing law appeal to the special sessions or quarter sessions against any rate made for the relief of the poor in any parish, and the result of such appeal shall be to amend the rate appealed against, the Assessment Committee shall alter the valuation list of the said parish in conformity with the decision so made.

Custody, &c., of valuation list after approval.

23. [*] Every valuation list, when approved by the committee, shall be delivered to the overseers of the parish to which the same relates (*a*), and shall be

(*a*) Sec 31 & 32 Vict. c. 122, s. 30, *post.*

preserved at the like place and in the like custody, and be subject to the like resort thereto, and be delivered over from time to time in like manner, as the books are wherein rates and assessments for the relief of the poor for the same parish are entered, and shall be produced by the overseers before the justices, upon application, for the allowance of rates, and at the special or general or quarter sessions when any appeal is to be heard, and also at such times and places as the committee may from time to time direct.

What shall be deemed valuation lists in force.

24. [*] Every valuation list approved by the committee, and delivered to the overseers of the parish to which the same relates, shall with and subject to the alterations and additions for the time being made therein or thereto by any supplemental valuation lists so approved and delivered, be the valuation list in force in such parish, except in the case of any parish, as is hereinafter referred to, in which the poor rate, or assessment for the poor rate, is made under the authority of a local Act, until a new valuation list in substitution for the same be approved, and delivered in like manner (*b*).

Overseers to prepare supplemental valuation lists in case of additions to or alterations in the rateable property of the parish.

25. [*] When and so often as any property not included in the valuation list in force in any parish becomes rateable, or where, by reason of any alteration in the occupation of any property included in such list, such property becomes liable to be rated in parts not mentioned in such list as rateable hereditaments and separately valued therein, and when and so often as it shall appear to the overseers that any rateable

(*b*) See the provision for lost, injured, or destroyed lists, in 31 & 32 Vict. c. 122, s. 31, *post*.

property included in such list has been increased or reduced in value since the valuation thereof, whether by building, destruction of building, or other alteration in the condition thereof or otherwise, the overseers of the parish in each of the cases aforesaid shall, as soon as conveniently may be, make a supplemental valuation list showing the annual rateable value according to the judgment of the overseers of the property so become rateable, or of the parts so become liable to be rated separately, or of the property, so increased or reduced in value, as the case may be (*a*).

Committee may from time to time direct new valuation, and new or supplemental valuation lists.

26. [*] The committee by their order may from time to time, where they see fit, upon the application of any person aggrieved by the valuation list in force in any parish, or where they themselves think the same expedient, direct a new valuation of all or any of the rateable hereditaments in such parish, and a new valuation list in substitution for such valuation list as aforesaid, or a supplemental list in substitution for any part thereof or in addition thereto, to be made by the overseers, or the committee may, with such consent as aforesaid, appoint a person for such purpose; and the committee may, in directing such new valuation and the making of such new or supplemental valuation list, give and make all such or the like directions and provisions in relation thereto as they are authorized under this Act to give and make in relation to the valuations and valuation lists first directed and authorized to be made under the Act (*b*).

(*a*) See further, 31 & 32 Vict. c. 122, s. 38, and 33 & 34 Vict. c. 41, s. 13, *post*.

(*b*) See provision as to the expenses of the overseers, in 27 & 28 Vict. c. 39, s. 7, *post*.

This Act as to valuation lists first directed to be made to apply to new and supplemental valuation lists.

27. [*] All the provisions of this Act in relation to signature, deposit, objections, approval, and otherwise concerning the valuation list first directed and authorized to be made under this Act of the rateable hereditaments in any parish shall be applicable to every new or supplemental valuation list to be made under this Act.

After a valuation list is approved no rate to be allowed unless made according to such list.

28. In every parish where a valuation list under this Act has been approved and delivered to the overseers, no rate for the relief of the poor, or other rate which by law is required to be based upon the poor rate (*c*), shall be of any force, unless the hereditaments included in such rate, except as hereinafter provided, be rated according to the annual rateable value thereof appearing in the valuation list in force is such parish; and instead of the declaration required by the second section of the said statute of the sixth and seventh years of William the Fourth, chapter ninety-six, the overseers shall, before the rate shall be allowed by the justices, sign a declaration according to the form set forth in the schedule hereunto annexed (*d*): Provided always, that where by reason of any alteration in the occupation of any property included in such list, such property has become liable to be rated in parts not mentioned in such list as rateable hereditaments, and separately rated therein, such parts may, where a supplemental valuation list showing the annual rateable value of such parts has not been approved and delivered as hereinbefore required, and whether such list has or has not been made, be rated according to such amounts as shall be fair apportioned parts of the

(*c*) The 29 & 30 Vict. c. 78, prevents the application of this clause to the county rate.

(*d*) See 27 & 28 Vict. c. 39, s. 11, *post*, as to false declarations.

annual rateable value appearing in such valuation list in force as aforesaid of the hereditaments out of which such parts have been constituted.

Provision for places under local Acts.

29. [*] The provisions of section twenty-eight shall not apply to any poor rate made by any vestry, trustees, guardians, commissioners, overseers, or other persons authorized by any local Act to make the rate for the relief of the poor in any parish, or the assessment on which such rate is made.

In computing amount of contributions to common fund the annual rateable value to be taken from approved valuation lists.

30. When the assessment committee for any union shall have approved valuation lists for all the parishes comprised within such union (*a*), the guardians of such union in computing the amount of contribution to the common fund for the several parishes shall thenceforward take the annual rateable value of the property in such parishes respectively from the valuation lists for the time being lastly approved of for such parishes respectively, any statute to the contrary notwithstanding: Provided that in case any parish comprised in any union shall receive any sum of money as a contribution in aid of the poor rate of such parish, for or in respect of government property within such parish, and used for public purposes, the annual value of such property, according to the estimate (if any) of such value on which the amount of the sum of money so received is computed, or, if there be no such estimate, then the annual value of such property, estimated in the mode provided by the Act sixth and seventh William the Fourth, chapter ninety-six, for making an estimate of the annual rateable value of property liable to be rated to

(*a*) See the provision in 30 & 31 Vict. c. 106, for the case of parishes added to unions, and of parishes in unions divided.

rates for the relief of the poor, shall be included by the overseer or overseers in the valuation list of such parish, and shall be added to the annual rateable value of the property in such parish in computing the amount of contribution to the common fund for the several parishes in such union.

Copy of valuation lists to be deposited in board-room.

31. [*] The committee (*b*) shall cause a copy of the valuation list for the time in force for every parish in the union to be made and deposited at the board-room or other convenient place, to be appointed by the board of guardians in the custody of the clerk, which copy shall be open at seasonable times to the inspection of any of the guardians of the union, and of any overseer of any parish within the union, without charge, and of any ratepayer within the union, on payment of one shilling, such fee to be carried to the account of the common fund.

Appeal against valuation list.

32. [*] If the overseer or overseers of any parish in any union shall have reason to think that such parish is aggrieved by the valuation list of any parish within such union, whether it be on the ground that the rateable hereditaments comprised in the valuation list of such parish are valued at sums beyond the annual rateable value thereof, or on the ground that the rateable hereditaments comprised in the valuation list of some other parish in such union are valued at sums less than the annual rateable value thereof, it shall be lawful for such overseer or overseers, with the consent of a vestry summoned for the purpose of considering the expediency of giving such consent, to appeal to the quarter sessions for the county or borough in which the greatest

(*b*) See now, however, 31 & 32 Vict. c. 122, s. 30, *post.*

number of parishes belonging to the union is situate, or, in case the number of parishes in any two or more such jurisdictions is equal, to the quarter sessions for the county or borough having jurisdiction over the parish in which the workhouse of the union is situate, at the sessions to be holden after the expiration of a month after the allowance of and deposit of such valuation list as aforesaid, against such valuation list of the parish which shall appear to be overvalued or undervalued; and if in any case any such overseer or overseers appeal against the valuation list of any other parish on the ground that the rateable hereditaments in such list are valued at less than the annual rateable value thereof, such overseer or overseers shall give fourteen clear days' notice in writing previous to the first day of the said quarter sessions at which the appeal is to be made of the intention to appeal, and the grounds thereof, to the overseers of the poor of such parish, and to the guardians of the union comprising such parish; and if any overseer or overseers of any parish appeal against the valuation list of such parish on the ground that the rateable hereditaments in such list are valued beyond the annual rateable value thereof, such overseer or overseers shall give fourteen days' notice in writing previous to the quarter sessions at which the appeal is to be made of the intention to appeal, and the grounds thereof, to the guardians of the union in which such parish is situate, the said court shall be empowered to hear and determine such appeal, and either confirm such valuation list, or correct such irregularities or inaccuracies as shall be proved to exist therein as to them may appear fair and just; but no such valuation list shall upon such appeal be quashed or destroyed in regard to any other parish

unless the court deem it necessary to proceed to the making of an entire new valuation list as hereinafter provided.

Hearing and determining appeals.

33. [*] It shall be lawful for the court of quarter sessions upon any such appeal, instead of hearing the said appeal, to adjourn the same, and to order, upon the application of the appellant or respondent in such appeal, a survey or valuation of any of the parishes in respect of which such appeal shall be made, and fix the next or some subsequent sessions for receiving such survey or valuation, and for hearing and determining such appeal; and such court shall also thereupon appoint a proper person to make such survey or valuation, and the person so appointed shall have power, with or without assistants, to enter upon and survey, measure, and value all the hereditaments liable to be assessed to the rates for the relief of the poor within the parish or parishes mentioned in such order, and such survey and valuation shall be reported to the quarter sessions on adjournment fixed as aforesaid for receiving the same, and the court then and there assembled shall hear and determine the said appeal in the manner herinbefore set forth.

Costs of valuation and appeal.

34. [*] The charges and expenses of any such survey and valuation so ordered shall be deemed costs in such appeal, and abide the event thereof, and the court before which any such appeal is heard and determined may order the costs in and about the appeal to be paid by either the appellant or respondent party, as they in their discretion may think fit; but where any appeal is made on the ground that the rateable hereditaments of any parish comprised in the valuation list of such parish are valued beyond

the annual rateable value thereof, if the court on such appeal determine in favour of the appellants, such court shall ascertain the costs and charges incurred by such appellants in and about such appeal, and shall order the board of guardians of the union in which such parish is situate to pay the same to the appellants out of the money raised for the common fund for the several parishes in such union.

Act not to prevent composition for rates.

35. [*] Nothing herein contained shall be construed to prevent the owners of tenements from compounding for the rates to be assessed on the same, in such manner as they were by any statute or statutes enabled to do before the passing of this Act.

Saving of exemptions and special rules of rating.

36. [*] Nothing herein contained shall extend or be taken to render liable to be rated any property, or any person in respect of any occupation not now by law rateable of any property, or to deprive any property, or the occupier of any property, of the benefit of any exemption, in whole or in part, to which such property or occupier is now by law entitled, from any poor rate or other rate which by law is required to be based upon the poor rate, or to render liable to be rated, according to the annual rateable value thereof, any property which under any local Act or otherwise is entitled to be rated upon a fixed amount, or according to any special or exceptional principle of valuation, whether such property shall or shall not be included in any valuation list in force under this Act, or shall in anywise affect the provisions of "The Cambridge Award Act, 1856," or the Act of the seventeenth and eighteenth Victoria relating to the relief of the poor in the city of Oxford.

Board may allow compensation

37. The committee may allow such compensation for any returns, copies, or extracts, or any valuation

or valuation list, or other act, matter, or thing to be made or done in pursuance of their order, and such expenses connected therewith, as to the committee in each case seems just. for returns, &c., and expenses.

38. The remuneration allowed by the committee to their clerk, and all expenses incurred by them for the common use and benefit of the several parishes within the union for which they are appointed, shall be paid by the guardians of the said union, and be charged upon the common fund thereof. Remuneration to clerk and certain expenses of committee to be paid out of common fund.

39. [*] The expenses of making any valuation and valuation list of any parish, or any of such expenses, whether such valuation and valuation list respectively be made by the overseers, or by any person appointed by the committee shall be charged upon the poor rates of such parish (*a*), if the valuation made by direction of the committee shall exceed by one-sixth the amount of the valuation delivered to them by the overseers, and upon the common fund of the said union if the valuation so made as last mentioned shall not exceed by one-sixth the valuation so delivered as aforesaid. Expenses of valuation, &c., to be paid out of poor rates.

40. Every person who wilfully refuses to attend in obedience to any lawful order of any such committee, or to give evidence, or refuses to produce any rate book, assessment, or valuation which may be lawfully required to be produced before such committee, shall for every such offence be liable to a penalty not exceeding twenty pounds upon a summary conviction for the same before two justices of the peace; and every person who wilfully injures, defaces, conceals, Penalty for non-attendance, &c., in obedience to order of the committee.

Injuring, &c., rate books, a misdemeanor.

(*a*) As to the expenses of the overseers, see 27 & 28 Vict. c. 39, ss. 7 and 8, as to a loan for the costs of the valuation, *post*.

or destroys such rate book, or who upon any examination before any such committee wilfully gives false evidence, shall be deemed guilty of a misdemeanor.

Authentication and service of orders and notices of the committee.

41. [*] Every order and notice made or given by the committee under this Act may be in writing or print, or partly in writing and partly in print, and shall be sufficiently authenticated if signed by their clerk, and may be served by the same, or a copy thereof, being delivered personally or sent by the post to the party on or to whom such order or notice purports to be made or given, or by being delivered at his usual place of abode.

Service of notices, &c., on the committee.

42. [*] Any notice or statement required to be served upon the committee may be served by being left at the office of the clerk to the board of guardians, or sent through the post-office, addressed to the committee at such clerk's office, or by being delivered personally to their clerk, or at his usual place of abode.

Provisions as to form of poor rate.

43. [*] In every parish, until a valuation list has been approved and delivered to the overseers under this Act, every rate made for the relief of the poor in such parish shall be made in the form and contain the particulars required by the said Act of the sixth and seventh years of King William the Fourth; and after such valuation list has been so approved and delivered, every such rate, except in any parish where the poor rate or the assessment for the same is made under the provisions of a local Act as aforesaid, shall show the annual rateable value of each hereditament comprised therein, according to the valuation list in force in such parish.

Provisions concerning the assess-

44. All the powers, authorities, provisions, clauses, and regulations now in force relating to the assess-

ment, collection, and levying of poor rates (save so far as the same are hereby repealed or altered) shall be good, valid, and effectual for the purposes of assessing, levying, collecting, and enforcing the payment of such rate and for carrying this Act into execution. ment, &c., of poor rates to be applicable to rates made according to this Act.

45. [*] And whereas there are divers unions or incorporations for the relief of the poor formed under local Acts and under the Act of the twenty-second year of King George the Third, chapter eighty-three, which may desire to adopt the provisions of this Act: Be it enacted that any such union or incorporation, on resolution to that effect of a majority, at two successive meetings of the body, having under the constitution of such union or incorporation the management of the relief of the poor within the same, may, by writing under the hand of the presiding chairman of the second of such meetings, apply to the Poor Law Board to be included in this Act; and such union or incorporation, upon the consent of the Poor Law Board being given to such application under its seal, shall be so included, and such consent so signified shall be evidence that such application was in all respects duly made according to the provisions above mentioned; and such regulations shall thereafter be made from time to time by the said board, with the consent of such body, as may be necessary to render the provisions of this Act conformable with the provisions of the Act under which the said union or incorporation shall have been formed. Power for unions under Gilbert's or local Acts to be included in this Act.

46. This Act shall extend only to England (*a*). Extent of the Act.

(*a*) England includes Wales, see 20 Geo. 2, c. 42 s. 3.

SCHEDULE.

VALUATION LIST for [the Parish or Place for which the List is made] in the County of

Name of Occupier.	Name of Owner.	Description of Property.	Name or Situation of Property.	Estimated Extent	Gross estimated Rental	Rateable Value.

Signed this ——— day of ———

A.B. } Overseers of the Poor of
C.D. } the Parish aforesaid.

DECLARATION TO BE ADDED TO THE RATE.

WE, the undersigned, do hereby declare that one of us, or some person on our behalf has examined and compared the several particulars in the respective columns of the above rate with the valuation list made under the authority of the Union Assessment Committee Act of 1862, in force in this parish [*or* township], and the several hereditaments are, to the best of our belief, rated according to the value appearing in such valuation list.

——— } Churchwardens.

——— } Overseers.

26 & 27 Vict. c. 33.

An Act for granting to Her Majesty certain Duties of Inland Revenue and to amend the Laws relating to the Inland Revenue. [29th June, 1863.]

Sect. 22. Whereas the assessment committee provided for by "The County Rates Assessment Act," section fifty-two, and by "The Union Assessment Committee Act, 1862," respectively, are thereby empowered to require assessors, collectors, and other persons therein mentioned to make and transmit copies of or extracts from the books of assessment of any taxes or rates in their custody, and to produce such books as therein mentioned: Be it enacted, that nothing in the said Acts contained shall extend to authorize or empower the said committee to require any assessor, collector, or other person employed in the assessment or collection of the income tax to make or transmit or to permit any other person to make copies of or extracts from any assessment, rate, or rate book, or any document relating to the assessment or collection of the income tax upon profits of trade for or in respect of any quarries, mines, ironworks, gasworks, or other concerns in the nature of trade or manufacture chargeable under Schedule (A.) of the Income Tax Acts, or to attend before the said committee to produce any such assessment, rate, or rate book, or other such document as aforesaid, or to be examined by or before such committee touching or concerning the same.

26 & 27 Vict. c. 65.

An Act to consolidate and amend the Acts relating to the Volunteer Force in Great Britain.

[21st July, 1863.]

Volunteer storehouses.

Sect. 26. Every storehouse for the depositing and safe custody of the arms, ammunition, or stores of a volunteer corps or administrative regiment, shall be free from all county, parochial, or other local rates and assessments.

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27 & 28 Vict. c. 39.

An Act to amend the Union Assessment Committee Act (1862). [14th July, 1864.]

"WHEREAS it is expedient to amend the Union Assessment Committee Act, 1862, in regard to appeals against poor rates, and to make further provisions for securing correct and uniform valuations of the property liable to be assessed to the relief of the poor:" Be it therefore enacted:

Notice of appeal against poor rate to be given to the assessment committee of union.

1. Before any appeal shall be heard by any special or quarter sessions against a poor rate made for any parish contained in any union to which the Union Assessment Committee Act, 1862, applies, the appellant shall give twenty-one days notice in writing previous to the special or quarter sessions to which such appeal is to be made of the intention to appeal, and the grounds thereof, to the assessment committee of such union:

Provided that after the first day of August next no

person shall be empowered to appeal to any sessions against a poor rate made in conformity with the valuation list approved of by such committee, unless he shall have given to such committee notice of objection against the said list, and shall have failed to obtain such relief in the matter as he deems just; and which objection, after notice given at any time in the manner prescribed by the said Act with respect to objections, the committee shall hear, with full power to call for and amend such list, although the same has been approved of, and no subsequent list has been transmitted to them;

And if they amend the same shall give notice of such amendment to the overseers, who shall thereupon alter their then current rate accordingly.

Committee may, with consent of guardians, be co-respondents.

2. The assessment committee of such union may, with the consent of the guardians of such union after notice shall have been sent to every guardian, appear as respondents to such appeal, but in the name of the guardians of such union, in like manner, and with the same incidents, and subject to the same liabilities, and entitled to the same remedies and rights, as in the case of persons other than the overseers to whom notice of appeal may be given.

Provision as to costs of committee on appeals.

3. The costs which the committee may incur in consequence of becoming respondents to such appeal, or of having received notice thereof, shall, if not recovered from the appellants, as well as any costs the committee may be ordered to pay to the appellants, be paid by the guardians and charged to the common fund of the union, unless the court before whom such appeal is heard shall direct that such costs, or any part thereof, shall be charged to the parish the rate of which is appealed against.

Valuation to be made in writing.

4. Where a valuer is appointed by the assessment committee he shall make his valuation in writing, showing the particulars of the several hereditaments comprised therein, and the amounts at which he has valued the same respectively, and shall sign such valuation, which shall be open to inspection in like manner and with the same incidents with respect to the taking of copies or extracts as the minute books of the committee.

Notice of assessment to be given to certain companies.

5. Within fourteen days after the transmission to the assessment committee of any valuation or supplemental valuation list, the committee shall give notice to every railway, telegraph, canal, gas, and water company named in such list as the occupier of any property included therein, and not having any office or place of business in the parish to which such list relates, of the sum or sums set down as the rateable value of the property purporting to be occupied by such company or companies, and such notice may be served by being transmitted through the post to the principal office of the company, or one of their principal offices when there shall be more than one.

Justices in certain cases not disqualified for hearing appeals.

6. No justice of the peace shall be disqualified for acting in the determination of any appeal against a poor rate at any quarter or special sessions by reason of such justice being rated, or being liable to be rated in some other parish in the union than that for which the rate appealed against is made.

Expenses of overseers incurred with consent of vestry or

7. When the overseers of any parish incur any expense in making out any valuation list or supplemental list, or in revising or valuing any of the rateable hereditaments of such parish, under the provisions of the Union Assessment Committee Act, 1862, with

the consent of the vestry given by express resolution, after due notice, they may charge such expense, so far as the same may be authorized by the vestry, upon the poor rate: allowed by assessment committee may be charged on poor rates.

And if no vestry meeting be held, or no decision arrived at on the subject, then to the extent which the assessment committee shall allow:

Provided that, as regards the valuation of the property, no expense shall be so charged upon the poor rate unless the consent of such committee to the procuring of such valuation by the overseers shall have been given previously to the same being made.

8. If the assessment committee order a valuation, with the consent of the board of guardians, to be made of all the rateable hereditaments of any parish, the guardians of the union may, if they think fit, apply to the Poor Law Board for an order to enable them to borrow the requisite amount to pay the cost of such valuation: Power to guardians with the order of the Poor Law Board to borrow money for valuation expenses.

And if the said board shall issue their order, the said guardians may borrow the same, and charge the poor rates of the several parishes in the union with the repayment of the same by not more than five equal annual instalments:

And where the parish for which the valuation is made shall, by reason of any provision in the said Union Assessment Committee Act, or this Act, be liable to pay the cost of such valuation, the said guardians shall charge the annual instalments, and the interest payable therewith, to such parish, and may recover the same as and with the usual contributions.

9. The clerk of every assessment committee shall send annually in the month of December, copies of Clerks of assessment commit-

tees to furnish clerks of the peace with totals of valuation.

the totals of the gross estimated rental and rateable value of the property included in the valuation lists of the several parishes within the union, and where such totals have been altered by any supplemental valuation list or lists, then of such totals as altered, to the clerk or respective clerks of the peace of the county or counties within which such parishes respectively may be situate.

Power to Poor Law Board to order map or plan to be made.

10. If there be no map or plan of any parish available for the use or sufficient for the purposes of the assessment committee, the committee may, with the consent of the guardians, after notice as aforesaid, and under the authority of an order of the Poor Law Board, appoint a competent person to make a map or plan of such parish, and the cost thereof shall be charged either to the common fund, or to the parish, as may be directed by the Poor Law Board.

Penalty on overseers omitting to make declaration or making false declaration.

11. Any overseer who wilfully omits to make the declaration required to be made by the Union Assessment Committee Act, 1862, or makes the same falsely, knowing the same to be untrue, shall be liable for every such offence to a penalty not exceeding five pounds, upon a summary conviction for the same before two justices of the peace.

25 & 26 Vict. c. 103, incorporated herewith.

12. The provisions of the Union Assessment Committee Act, 1862, shall, so far as the same are not contrary hereto, be incorporated herewith, and the terms used herein shall be construed in like manner as in that Act.

Short title.

13. This Act may be cited as "The Union Assessment Committee Amendment Act, 1864."

30 & 31 Vict. c. 106.

An Act to make the Poor Law Board permanent, and to provide sundry amendments in the laws for the relief of the Poor. [20th August, 1867.]

Voting of corporations and joint-stock companies as rate-payers.

Sect. 10. Where any corporation aggregate, joint stock or other company, commissioners, or public trustees shall be rated, any officer of such corporation, company, commissioners, or public trustees from time to time appointed by the governing body thereof whose name shall be sent in writing to the overseers before the first day of March in any year, to be entered in the rate book under the name of such corporation, company, commissioners, or public trustees, shall be entitled to vote in respect of the property assessed as if he were assessed in his own name for the same, and in the case of a parish divided into wards shall vote in the ward where the principal office of the corporation, company, commissioners, or public trustees shall be situated, if any, or otherwise in that ward where the greatest part of the property assessed shall be situated.

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31 & 32 Vict. c. 110.

An Act to enable Her Majesty's Postmaster-General to acquire, work, and maintain Electric Telegraphs. [31st July, 1868.]

Postmaster-General to pay rates, &c.

Sect. 22. All land, property, and undertakings purchased or acquired by the Postmaster-General under this Act shall be assessable and rateable in respect of local, municipal, and parochial rates, assessments, and charges, at sums not exceeding the rateable value at

which such land, property, and undertakings were properly assessed or assessable at the time of such purchase or aquisition (*a*).

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31 & 32 Vict. c. 122.

An Act to make further amendments in the laws for the relief of the Poor in England and Wales.

[31st July, 1868.]

Columns in the valuation lists to be cast up by the committee, and fair copies of the approved valuation lists to be given to the overseers, instead of originals.

Sect. 30. When the assessment committee in any union shall have finally approved of any valuation list, whether original, substitutional, or supplemental they shall cause the total of the entries in the columns for the gross estimated value and the rateable value to be ascertained and entered at the foot of the same, and shall retain such list for the use of the guardians, to be dealt with in the manner provided by the thirty-first section of the Union Assessment Committee Act, 1862, and shall deliver a fair copy of the same to the overseers, signed by the three members of the committee who approved of the same; and such copy shall be countersigned by the clerk of the committee, and shall be preserved by the overseers, and dealt with by them in all respects as the lists made out by them would have been dealt with according to the law now in force, and it shall not be necessary for the said committee to cause any other copy to be made.

Certified copies of valuation

31. Where any valuation list heretofore approved, or the copy hereafter to be made, shall be lost, injured, or

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(*a*) Upon this enactment it has been held that no duty is cast upon the Postmaster-General to pay the rates; and that there is no remedy by *mandamus* against him to enforce payment of rates made upon the basis of the approved valuation list: *Reg.* v. *Postmaster-General*, 28 L. T. (N.S.) 337; 37 J. P. 196.

destroyed, the overseers of the parish to which it relates may apply to the clerk of the guardians for a copy of the same; and the clerk, upon payment of a reasonable compensation, not exceeding three shillings for one hundred separate rateable hereditaments, shall give such copy, and certify the same to be a true copy of the list deposited with the said guardians, and such certified copy shall be thenceforth available as the original. Lists rendered available whose original is lost.

32. The guardians may, upon the application of the assessment committee, after notice sent in the manner required by the Union Assessment Committee Act, 1862, appoint some competent person to assist the committee in the valuation of the rateable hereditaments of the union for such period as they shall see fit, at a salary or other settled remuneration to be paid out of the common fund. Guardians may appoint a paid valuer to assist the assessment committee.

* * * *

38. When any person shall occupy any new house or other building in any parish where the poor rate is not made under the provisions of a local Act, which house or building was incomplete, or not fit for occupation, or was not entered as such in the valuation list in force in the parish at the time when the current rate for the time being was made, the overseers may enter such house or building with the name of the occupier thereof and the date of the entry in the rate book, and require the occupier to pay such amount as according to their judgment shall be the proper sum, having due regard to the rateable value of such house or building, and the time which shall have elapsed from the making of the current rate to the date of such entry, and the person so charged shall be considered as actually rated from such date, and shall be liable to pay the sum assessed in like manner and subject to the like penalty Provision for the rating of new houses or buildings.

of distress, and with the like power of appeal, as if he had been assessed for the same when the rate was made: Provided that when the said overseers shall so enter the said house or building in the rate book they shall forward to the assessment committee of the union comprising such parish, if any such there be, a supplemental list with reference to such house or building, and the same shall be dealt with in all respects, and with the like incidents and consequences, as a supplemental list made by the overseers under section twenty-five of "The Union Assessment Committee Act, 1862."

Demand of poor rate may be made on the premises.

39. When a poor rate shall be made and assessed upon any land or premises, and the occupier thereof is not living on such land or premises nor in the parish for which the rate shall be made, or the owner if assessed for such rate in the place of the occupier, is not living in such parish, a demand of the rate in writing delivered to the person having the custody of the land or premises, or if no such person can be found, then affixed upon some conspicuous part of the land or premises, shall be deemed a sufficient demand to justify proceedings for the non-payment of such rate; and where the residence or place of abode of the person assessed is not known to the overseers, and cannot be ascertained upon inquiry at the said land or premises, the summons for the non-payment of the rate may be served in like manner.

Demand of rate from a corporation or a company.

40. When a poor rate is assessed upon any corporation aggregate, joint-stock or other company, or any conservators or other public trustees, a demand for payment, either made by letter sent through the post addressed to the clerk or secretary, or other principal officer of the corporation, company, conservators, or trustees at the office of such corporation, company, con-

servators, or trustees, or made personally upon such clerk, secretary, or officer at such office, shall be deemed a sufficient demand, and a summons for the non-payment of such rate may be served in like manner.

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32 & 33 Vict. c. 40.

An Act to exempt from rating Sunday and Ragged Schools. [26th July, 1869.]

WHEREAS for many years and until lately buildings used as Sunday and ragged schools for gratuitous education enjoyed an exemption from poor and other rates, and it is expedient that they should be exempted from such liability.

Be it therefore enacted as follows:—

From 30th Sept., 1869, Sunday and ragged schools may be exempted from rates for relief of poor, &c.

1. From and after the 30th day of September, 1869, every authority having power to impose or levy any rate upon the occupier of any building or part of a building used exclusively as a Sunday school or ragged school, may exempt such building or part of a building from any rate for any purpose whatever which such authority has power to impose or levy (*a*): Provided, that nothing in this Act contained shall prejudice or affect the right of exemption from rating of Sunday or infant schools, or for the charitable education of the poor in any churches, district churches, chapels, meeting-houses, or other premises, or any vestry rooms

(*a*) There is no absolute exemption of these schools from the rate. The authority referred to is empowered to exempt, but is not in terms compelled to do so.

It has now been held that the word "may" has not the sense of "must;" and therefore the rating authorities may exercise a discretion in exempting or not exempting Sunday schools or ragged schools from rating: *Bell* v. *Crane*, 29 L. T. (N. S.) 207; 42 L. J. M. C. 122; L. R. 8 Q. B. 481.

belonging thereto, or any part thereof, by virtue of an Act passed in the 3rd and 4th years of the reign of King William the Fourth, chapter 30, intituled "An Act to exempt from poor and church rates all churches, chapels, and other places of religious worship."

Interpretation of terms.

2. A "Sunday School" shall mean any school used for giving religious education gratuitously to children and young persons on Sunday, and on week days for the holding of classes and meetings in furtherance of the same object, and without pecuniary profit being derived therefrom.

A "Ragged School" shall mean any school used for the gratuitous education of children and young persons of the poorest classes, and for the holding of classes and meetings in furtherance of the same object, and without any pecuniary benefit being derived therefrom except to the teacher or teachers employed.

Extent of Act.

3. This Act shall not extend to Ireland.

Short title.

4. This Act may be cited as the "Sunday and Ragged Schools (Exemption from Rating) Act, 1869."

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32 & 33 Vict. c. 41.

An Act for amending the law with respect to the rating of Occupiers for short terms, and the making and collecting of the Poor's Rate.

[26th July, 1869.]

Whereas it is expedient to amend the law relating to the collection of poor rates assessed upon occupiers of hereditaments held for short terms, and to the making and collecting of the poor rate:

Be it therefore enacted as follows :—

Occupiers of tenements let for short terms may deduct the poor rate paid by them from their rents.

1. The occupier of any rateable hereditament let to him for a term not exceeding three months shall be entitled to deduct the amount paid by him in respect of any poor rate assessed upon such hereditaments from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate so paid.

Amount of rate payable by occupier.

2. No such occupier shall be compelled to pay to the overseers at one time or within four weeks a greater amount of the rate than would be due for one quarter of the year.

Owners may agree to pay the rate and be allowed a commission.

3. In case the rateable value of any hereditament does not exceed twenty pounds, if the hereditament is situate in the metropolis, or thirteen pounds if situate in any parish wholly or partly within the borough of Liverpool, or ten pounds if situate in any parish wholly or partly within the city of Manchester, or the borough of Birmingham, or eight pounds if situate elsewhere, and the owner of such hereditament is willing to enter into an agreement in writing with the overseers to become liable to them for the poor rates assessed in respect of such hereditament, for any term not being less than one year from the date of such agreement, and to pay the poor rates whether the hereditament is occupied or not, the overseers may, subject nevertheless to the control of the vestry, agree with the owner to receive the rates from him, and to allow to him a commission not exceeding twenty-five per cent. on the amount thereof.

Vestries may order the owner to be rated instead of the occupier.

4. The vestry of any parish may from time to time order that the owners of all rateable hereditaments to which section three of this Act extends, situate within such parish, shall be rated to the poor rate in respect

of such rateable hereditaments, instead of the occupiers, on all rates made after the date of such order; and thereupon and so long as such order shall be in force the following enactments shall have effect :—

1. The overseers shall rate the owners instead of the occupiers, and shall allow to them an abatement or deduction of fifteen per centum from the amount of the rate:
2. If the owner of one or more such rateable hereditaments shall give notice to the overseers in writing that he is willing to be rated for any term not being less than one year in respect of all such rateable hereditaments of which he is owner, whether the same be occupied or not, the overseers shall rate such owner accordingly, and allow to him a further abatement or deduction not exceeding fifteen per centum from the amount of the rate during the time he is so rated:
3. The vestry may by resolution rescind any such order after a day to be fixed by them, such day being not less than six months after the passing of such resolution, but the order shall continue in force with respect to all rates made before the date on which the resolution takes effect:

Provided that this clause shall not be applicable to any rateable hereditament in which a dwelling-house shall not be included.

Owners omitting to pay rates before the fifth day of June to forfeit commission.

5. When an owner who has become liable to pay the poor rate omits or neglects to pay, before the fifth day of June in any year, any rate or any instalment thereof which has become due previously to the preceding fifth day of January, and has been duly demanded by a demand note delivered to him or left at his usual or last known place of abode, he shall not be entitled to

deduct or receive any commission, abatement, or allowance, to which he would, except for such omission or neglect, be entitled under this Act, but shall be liable to pay, and shall pay, such rate or instalment in full.

Repeal of 13 & 14 Vict. c. 99, &c., so far as the same apply to the poor rate.

6. The statute thirteenth and fourteenth Victoria, chapter ninety-nine, with respect to the rating of small tenements, and so much of any local statute as relates to the rating of owners instead of occupiers, are hereby repealed, so far as the same apply to any poor rate made after this Act comes into operation.

Constructive payment of the rate.

7. Every payment of a rate by the occupier, notwithstanding the amount thereof may be deducted from his rent as herein provided, and every payment of a rate by the owner, whether he himself is rated instead of the occupier, or has agreed with the occupier, or with the overseers to pay such rate, and notwithstanding any allowance or deduction which the overseers are empowered to make from the rate, shall be deemed a payment of the full rate by the occupier for the purpose of any qualification or franchise which, as regards rating, depends upon the payment of the poor rate.

Where owners omit to pay rates, the occupiers paying the same may deduct the amount from the rent.

8. Where an owner who has undertaken, whether by agreement with the occupier or with the overseers, to pay the poor rates, or has otherwise become liable to pay the same, omits or neglects to pay any such rate, the occupier may pay the same and deduct the amount from the rent due or accruing due to the owner, and the receipt for such rate shall be a valid discharge of the rent to the extent of the rate so paid.

Owners to give lists of occu-

9. Every owner who agrees with the overseer to pay the poor rate, or who is rated or liable to be rated

piers, and liable to penalty for wilful omission.

for any hereditament instead of the occupier, shall deliver to the overseers, from time to time, when required by them, in writing, a list containing the names of the actual occupiers of the hereditaments comprised in such agreement, or for which he is so rated or liable to be rated; and if any such owner wilfully omits to deliver such list when required to do so, or wilfully omits therefrom or misstates therein the name of any occupier, he shall for every such omission or misstatement be liable, on summary conviction, to a penalty not exceeding two pounds.

Notice to occupiers of rates in arrear

10. Section 28 of "The Representation of the People Act, 1867," with respect to notice to be given of rates in arrear, shall apply to occupiers of premises capable of conferring the parliamentary franchise, although the owners of such premises have become liable for the rates assessed thereon under the provisions of this Act.

Liability of owner under agreement.

11. Where the owner has become liable to the payment of the poor rates, the rates due from him, together with the costs and charges of levying and recovering the same, may be levied on the goods of the owner, and be recovered from him in the same way as poor rates may be recovered from the occupier.

Recovery of rates unpaid by the owner.

12. Notwithstanding the owner of any such rateable hereditament as aforesaid has become liable for payment of the poor rates assessed thereon, the goods and chattels of the occupier shall be liable to be distrained and sold for payment of such rates as may accrue during his occupation of the premises, at any time whilst such rates remain unpaid by the owner, subject to the following provisions:—

1. That no such distress shall be levied unless the rate has been demanded in writing, by the overseers from the occupier, and the occupier has failed to pay the same within fourteen days after the service of such demand:
2. That no greater sum shall be raised by such distress than shall at the time of making the same be actually due from the occupier for rent of the premises on which the distress is made:
3. That any such occupier shall be entitled to deduct the amount of rates for which such distraint is made, and the expense of distraint from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate and expenses paid.

Owners may appeal against valuation list and rate.

13. Every owner of any hereditament for the rates of which he has become liable shall have the same right of appeal (subject to the same conditions and consequences) against the valuation lists and the poor rates as if he were the occupier thereof.

The overseer to state the period for which poor rate is made.

Proviso.

14. The overseers of every parish when they make a poor rate shall set forth in the title of the rate the period for which the same is estimated, and if the same is payable by instalments the amount of each instalment and the date at which each instalment is payable; provided that if the necessities of the parish shall require it another rate may be made before such period shall have elapsed.

Overseers may make poor rate payable by

15. The overseers who make the poor rate for a period exceeding three months may declare that the same shall be paid by instalments at such times as

instalments.

they shall specify, and thereupon each instalment only shall be enforceable as and when it falls due, and the payment of any such instalment shall, as respects any qualification or franchise depending upon the payment of the poor rate, be deemed a payment of such rate in respect of the period to which such instalment applies.

Provision for successive occupiers, and for occupiers coming into unoccupied hereditaments.

16. If the occupier assessed in the rate when made shall cease to occupy before the rate shall have been wholly discharged, or if the hereditaments being unoccupied at the time of the making of the rate become occupied during the period for which the rate is made, the overseers shall enter in the rate book the name of the person who succeeds or comes into the occupation, as the case may be, and the date when such occupation commences, so far as the same shall be known to them, and such occupier shall thenceforth be deemed to have been actually rated from the date so entered by the overseer and shall be liable to pay so much of the rate as shall be proportionate to the time between the commencement of his occupation and the expiration of the period for which the rate was made, in like manner and with the like remedy of appeal, as if he had been rated when the rate was made; and an outgoing occupier shall remain liable in like manner for so much and no more of the rate as is proportionate to the time of his occupation within the period for which the rate was made; and the twelfth section of the statute 17 Geo. 2, c. 38, shall be repealed.

When the poor rate shall be deemed to be made.

17. A poor rate shall be deemed to be made on the day when it is allowed by the justices, and if the justices sever in their allowance then on the day of the last allowance.

Evidence of the due making and publication of rates.

18. The production of the book purporting to contain a poor rate, with the allowance of the rate by the justices, shall, if the rate is made in the form prescribed by law, be *primâ facie* evidence of the due making and publication of such rate.

Overseers to insert names of all occupiers in the rate.

19. The overseers in making out the poor rate shall, in every case, whether the rate is collected from the owner or occupier, or the owner is liable to the payment of the rate instead of the occupier, enter in the occupiers' column of the rate book the name of the occupier of every rateable hereditament, and such occupier shall be deemed to be duly rated for any qualification or franchise as aforesaid; and if any overseer negligently or wilfully and without reasonable cause omits the name of the occupier of any rateable hereditament from the rate, or negligently or wilfully misstates any name therein, such overseer shall for every such omission or mis-statement be liable on summary conviction to a penalty not exceeding two pounds; provided that any occupier whose name has been omitted shall, notwithstanding such omission and that no claim to be rated has been made by him, be entitled to every qualification and franchise depending upon rating in the same manner as if his name had not be so omitted.

Penalty for omission

Saving of franchises.

Interpretation of terms.

20. The word "overseer" shall include every authority that makes an assessment for the poor rate; the words "poor rate" shall mean the assessment for the relief of the poor, and for the other purposes chargeable thereon according to law, and in the metropolis shall extend to every rate made by the overseers, and chargeable upon the same property as the poor rate: the word "owner" shall mean any person receiving or claiming the rent of the

hereditaments for his own use, or receiving the same for the use of any corporation aggregate, or of any public company, or of any landlord or lessee who shall be a minor, a married woman, or insane, or for the use of any person for whom he is acting as agent; the word "parish" shall signify every place for which a separate overseer can be appointed; the word "vestry" shall include not only the vestry of a parish existing under the authority of some general or special Act of parliament, or by special custom or otherwise, but also the meeting of the inhabitants of any township, vill, or place having a separate overseer, and for which a separate poor rate is made, held after notice given in like manner as is required by law in regard to the meeting of vestries; and the word "Metropolis" shall include only the Metropolis as defined by the Metropolis Management Act, 1855.

Application of Act.

21. This Act shall not extend to Scotland or to Ireland.

Short title.

Commencement of Act.

22. This Act may be cited as "The Poor Rate Assessment and Collection Act, 1869," and shall come into operation on the twenty-ninth of September, one thousand eight hundred and sixty-nine: * * *

45 & 46 Vict. c. 20.

An Act to amend the Poor Rate Assessment and Collection Act, 1869. [3rd July, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act shall be called the Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882.

Interpretation. 32 & 33 Vict. c. 41.

2. This Act and the Poor Rate Assessment and Collection Act, 1869, as amended, shall be read as one Act.

Payment of rates by outgoing occupier to be proportionate to time of occupation.

3. The provisions of the sixteenth section of the Poor Rate Assessment and Collection Act, 1869, so far as regards the payment of rates by an outgoing occupier, shall extend and apply to any outgoing occupier assessed in the rate, and such outgoing occupier shall only be liable to pay so much of the rate as shall be proportionate to the time of his occupation within the period for which the rate was made, notwithstanding he may not be succeeded in his occupation by an incoming tenant.

This enactment was passed in order to obviate the effect of the decision of the Exchequer Division in the case of the *Overseers of the Poor of the Parish of St. Werburgh, Derby,* v. *Hutchinson* (L. R. 5 Ex. D. 19; 43 J. P. 785; 49 L. J. M. C. 23; 42 L. T. (N.S.) 153), in which it was held that the 16th section of the Poor Rate Assessment and Collection Act, 1869, did not relieve an occupier, who was assessed in a poor rate, but ceased to occupy before the rate had been wholly discharged, from his liability to pay the whole rate, unless there were some tenant who succeeded to the occupation of the hereditament, so as to become liable to pay a proportionate part of the rate. Affirmed by the Court of Appeal in *Hare* v. *Putney Overseers* (L. R. 7 Q. B. D. 223; 45 L. T. (N.S.) 337.)

Publication of rate where no parish church.

4. In a parish in which there is no church or chapel of the parish, a poor rate, whether made before or after the passing of this Act, shall be deemed to have been duly published if, within fourteen days after the making of the rate, notice thereof has been given by affixing

such notice in some public and conspicuous place or situation in the parish.

This enactment was also passed to obviate the effect of a decision, viz., that of the Queen's Bench Division in the case of *Reg.* v. *Dyott and others, Justices of Staffordshire* (W. N. 1882, p. 84; L. R. 8 Q. B. D. 47; 46 J. P. 324), which decided that a rate not published in the parish was unenforceable, although there was no church or chapel within such parish.

By the Highway Rate Assessment and Expenditure Act, 1882, (45 & 46 Vict. c. 27), it is also enacted as follows :—

Where in any parish the vestry have, under section four of the Poor Rate Assessment and Collection Act, 1869, ordered or shall hereafter order that the owners of all rateable hereditaments to which section three of that Act extends shall be rated to the poor rate in respect of such hereditaments instead of the occupiers, such order shall be deemed to extend to and include the highway rate, and whilst such order is in force the respective owners of such hereditaments shall be rated and assessed instead of the occupiers thereof to the highway rates made after the passing of this Act for any highway parish which is co-extensive with such parish or with any part thereof, and to which otherwise such occupiers might by law be rated; subject nevertheless to the abatements or deductions and to the conditions specified in sections four and five of the said Act; and for the purposes of this section the term "overseers" in section four of the said Act shall be construed to mean "surveyor of highways or other person authorised by law to make and levy a highway rate."

The surveyor of highways, or other person authorised by law to make and levy a highway rate, shall have the same powers, remedies, and privileges for recovering the rates made under this Act upon owners, as the overseers of the poor have under the said Poor Rate Assessment and Collection Act, 1869, for the recovery of a poor rate, and when the overseers are required by law to levy the highway rate, and such rate applies to the whole parish, they may levy the same as part of the poor rate.

Section thirty of the Highway Act, 1835, relating to the composition for rates in certain cases under local Acts is hereby repealed.

In every highway rate made after the passing of this Act the several hereditaments included therein and assessable to the poor rate shall be rated according to the annual rateable value thereof appearing in the valuation list for the time being in force in the parish which is co-extensive with or includes the highway parish to which the highway rate relates, and where any valuation list has been amended on objection pursuant to section one of the Union Assessment Committee Amendment Act, 1864, the assessment committee shall give notice of such amendment to the surveyor of highways or other person authorised to make and levy the highway rate, who shall thereupon alter the then current highway rate accordingly.

32 & 33 Vict. c. 67.

An Act to provide for uniformity in the Assessment of Rateable Property in the Metropolis.

[9th August, 1869.]

WHEREAS it is expedient to provide for a common basis of value for the purposes of government and local taxation, and to promote uniformity in the assessment of rateable property in the metropolis: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same as follows:

Preliminary.

Act to be construed as one with 25 & 26 Vict. c. 103, and 27 & 28 Vict. c. 39.

1. The Union Assessment Committee Act, 1862, is in this Act referred to as "the principal Act; and the principal Act, and the Union Assessment Committee Act, 1864 (amending the same), shall for the purposes of this Act, and so far as is consistent with the tenor thereof, be incorporated with this Act, and the expression "this Act" in the principal Act, and any expression referring to the principal Act which occurs in the said Act amending the same, or in any other Act or document, shall, as regards places to which this Act extends, be construed to mean the principal Act as incorporated with this Act (*a*).

(*a*) See sect. 35 (*a*) and (*b*), as to the provisions of the incorporated Acts.

By sect. 77, sched. 5, *post*, certain sections of the "principal Act," *ante*, p. 225, are repealed. They are denoted by an asterisk [*] preceding each.

Short title. 2. This Act (including the Acts incorporated herewith) may be cited as The Valuation (Metropolis) Act, 1869.

Extent of Act. 3. This Act shall extend only to unions and parishes not in union, which are for the time being either wholly or for the greater part in value thereof respectively situate within the jurisdiction of the metropolitan board of works appointed under the Metropolis Management Act, 1855.

18 & 19 Vict. c. 120.

Definitions. 4. In this Act, unless the context otherwise requires,—

"Metropolis:" The term "metropolis" means the unions and parishes to which this Act extends:

"Parish:" The term "parish" means any place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed:

"Union:" The term "union" means any union of parishes, and any parish for which there is a separate assessment committee under this Act and the Acts incorporated herewith:

"Ratepayer:" The term "ratepayer" means every person who is liable to any rate or tax in respect of property entered in any valuation list:

"Year:" The term "year" means the twelve months commencing with the sixth of April and ending with the succeeding fifth of April; and words referring to a year refer to the same period:

"Surveyor of taxes:" The term "surveyor of taxes" means any surveyor of taxes, inspector of taxes, or other officer appointed or to be appointed by the commissioners either of inland revenue or of Her Majesty's treasury for the purposes of any tax in respect of which a valuation list is by this Act made conclusive:

The term "overseers" includes any person or body of persons performing the duties of overseers so far as regards the assessment, making, and collection of rates for the relief of the poor: "Overseers:"

The term "vestry clerk" means the vestry clerk, if any, elected under the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter fifty-seven, or under a local Act, or if there is no such clerk, the vestry clerk appointed under "The Metropolis Management Act, 1855:" "Vestry clerk:"

The term "hereditament" means any lands, tenements, hereditaments, and property which are liable to any rate or tax in respect to which the valuation list is by this Act made conclusive (*a*): "Hereditament:"

The term "gross value" means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for an hereditament, if the tenant undertook to pay all usual tenant's rates and taxes, and tithe commutation rentcharge, if any, and if the landlord undertook to bear the cost of the repairs and insurance, and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent: "Gross value:"

The term "rateable value" means the gross value after deducting therefrom the probable annual average cost of the repairs, insurance, and other expenses, as aforesaid: "Rateable value"

The Acts specified in the First Schedule to this Act are in this Act referred to by the short title placed opposite to them in that schedule.

(*a*) See sect. 45, *post.*

Assessment Committee.

Election of assessment committee in single parish where there is a vestry.

5. Where, in any parish which is not included in any union formed under the Poor Law Amendment Act, 1834, and the Acts amending the same, there is for the time being a vestry elected according to the provisions of the Metropolis Management Act, 1855, but no assessment committee under the principal Act, the following provisions shall have effect:

(1.) Where in any such parish there is a board of guardians having power under any local Act to assess or make the rates for the relief of the poor, that board of guardians shall appoint an assessment committee:

(2.) Where any two of such parishes are united under a local Act for the purpose of assessing or making the rates for the relief of the poor, the guardians for such united parishes elected in pursuance of the Poor Law Amendment Act, 1834, and the Acts amending the same, shall appoint an assessment committee:

(3.) In cases other than those before mentioned the vestry of such parish shall appoint an assessment committee:

(4.) In the first year after the passing of this Act and every subsequent year, the body who appoint an assessment committee under this section shall on a day fixed by such body between the fifteenth and twenty-ninth of April in that year, or some other day fixed by the Poor Law Board, hold a meeting, and appoint from among themselves an assessment committee (consisting of not less than six nor more than twelve in number) in the same manner, as near as may be, as if the

parish or united parishes were an union and the appointing body a board of guardians, within the meaning of the principal Act (*a*).

All provisions of this Act and the Acts incorporated herewith shall—

(*a.*) in cases where the assessment committee is appointed by guardians under this section be construed as if such guardians, and the monies applicable by such guardians for the relief of the poor were the guardians mentioned in the principal Act and the common fund; and—

(*b.*) in cases where the assessment committee is appointed by the vestry be construed, so far as is consistent with the tenor thereof, as if the terms vestry, members of the vestry, vestry clerk, assistant vestry clerk, and monies applicable to the payment of the expenses of a vestry under the Metropolis Management Act, 1855, were respectively substituted for the terms board of guardians, guardians, clerk of the board of guardians, assistant clerk of the board of guardians, and common fund, but nothing in such Acts relating to *ex officio* guardians shall have any application in the case of a vestry.

Making of Valuation Lists.

Making of valuation lists.

6. The overseers of every parish to which this Act extends, within the time in this Act mentioned, shall make and sign a valuation list of their parish in duplicate, in accordance with this Act.

(*a*) See 25 & 26 Vict. c. 103, ss. 2, 4, 5, 6, *ante*, pp. 225—227.

Valuation lists to be dealt with under 25 & 26 Vict. c. 106, ss. 17 to 21.

7. After the valuation list is signed by the overseers the same proceedings shall be had as are directed by the seventeenth, eighteenth, nineteenth, twentieth, and twenty-first sections of the principal Act, subject to the alterations made by this Act (*a*).

Duplicate sent to surveyor of taxes.

8. The overseers shall send one duplicate of the valuation list to the surveyor of taxes of the district at the same time that the other duplicate is deposited by them. The surveyor of taxes shall insert in the duplicate so sent to him the amount in his opinion of the gross value of the hereditaments comprised in such list where such amount differs from the amount inserted by the overseers, and shall transmit the duplicate to the assessment committee within twenty-eight days after he has received the same (*b*).

Notice to occupier of alteration of value, &c.

9. In each of the following cases; namely,

(1.) Where the overseers of the parish insert in the valuation list some hereditament not previously assessed, or raise the gross or rateable value of some hereditament above the value stated in the valuation list for the time being in force or (where there is no valuation list) in the then last assessment to the poor rate, or

(2.) Where the assessment committee (otherwise than in determining an objection) alter a valuation list by inserting therein some hereditament, or by raising the gross or rateable value of some hereditament comprised therein,

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(*a*) See these sections *ante*, pp. 231—234. See also sect. 13, *post*, p. 273, which provides for a failure on the part of the overseers to transmit the list.

(*b*) See 25 & 26 Vict. c. 103, s. 17, *ante*, p. 231, as to the deposit of the valuation list.

the overseers shall immediately after the deposit or re-deposit of the list (as the case may be) serve on the occupier of such hereditament, a notice of the gross or rateable value thereof inserted in the valuation list.

Notice to state time and mode of objection.

10. The notice of the deposit and re-deposit of the valuation list published by the overseers shall state the times at which and the mode in which objections are to be made (*c*).

Grounds on which persons may object before assessment committee.

11. Objections may be made before the assessment committee by any person authorized by this Act and the Acts incorporated herewith to object who feels himself aggrieved by reason of the unfairness or incorrectness of the valuation of any hereditament, or by reason of the insertion or incorrectness of any matter in the valuation list, or by reason of the omission of any matter therefrom, or by reason of such a valuation list as is required by this Act not having been transmitted by the overseers to the assessment committee. The notice of objection shall specify the correction which the objector desires to be made (*d*).

Surveyor of taxes, &c., may inspect, copy, and object to valuation list.

12. A surveyor of taxes, and any ratepayer in the parish, shall have the same right of inspecting, copying, taking extracts from, and objecting to any valuation list which relates to his district or parish as is given to any person by this Act and the Acts incorporated herewith.

If overseers do

13. If the overseers of any parish fail to transmit such a valuation list as is required by this Act, the

(*c*) See sect. 42 (3) *post*, p. 288, as to the giving notices of objection.

(*d*) See sect. 12, *post*, and 25 & 26 Vict. c. 103, s. 18, *ante*, p. 231.

not transmit list, committee to appoint a person to do so.

assessment committee shall appoint some person to make a valuation list, and may allow such person such remuneration in addition to his expenses as they think fit; and all expenses incurred by the assessment committee in pursuance of this section shall be paid by the guardians, and charged by them to such parish.

The person so appointed shall have for the purposes of this section the same powers and duties as overseers, and the valuation list so made shall be dealt with in the like manner as if it had been duly made and transmitted by the overseers (*a*).

Valuation list to be revised, certified, and sent to overseers, &c.

14. The assessment committee, within the time in this Act mentioned, shall revise the valuation list in accordance with this Act and the Acts incorporated herewith. When they have finally approved such valuation list, they shall cause the totals of the gross and rateable value in such list to be ascertained and inserted in the list, and three members of the committee present at the meeting at which the list is finally approved shall sign at the foot thereof such declaration of approval and certificate of compliance with this Act as is contained in Part One of the Second Schedule to this Act. One duplicate, so certified, shall be sent to the clerk of the managers of the metropolitan asylum district, and the other duplicate to the overseers of the parish to which it relates (*b*).

Deposit of duplicate

15. The overseers of the parish, on receiving the duplicate of the valuation list so sent to them by the

(*a*) See sects. 6, 7, *ante*, pp. 271, 272.

(*b*) See sect. 42 (4), *post*, p. 288, as to the time for revision of the list; and also 25 & 26 Vict. c. 103, s. 21, *ante*, p. 234. See also sect. 42 (8), *post*, p. 289, as to the time within which the approved lists are to be sent to the overseers; and see also sect. 68, *post*.

assessment committee shall immediately deposit it in the place in which the rate books of the parish are kept, and shall publish notice of such deposit, and of the time and mode of making appeals, and of the grounds on which an appeal is allowed by this Act to be made (*c*). Deposit of list in each parish.

16. The certified valuation list so sent to the clerk of the managers of the metropolitan asylum district by the assessment committee shall be deposited at the office of such managers, and within the time in this Act mentioned shall be returned by such clerk to the same assessment committee (*d*). Deposit of list at office of the managers of metropolitan asylum district.

17. The clerk of the managers of the metropolitan asylum district shall, within the time in this Act mentioned, cause the totals of the gross and rateable values of all the valuation lists to be printed, and a printed copy of all such totals to be sent to every assessment committee, and the overseers of every parish in the metropolis and in every county in which any parish to which any of such totals relate is situate, to the clerks of the peace for every such county, to the Commissioners of the Metropolitan Police, the Corporation of the City of London, the Metropolitan Board of Works, every district board in the metropolis, and the Poor Law Board. Every assessment committee, overseer, and ratepayer within the metropolis and every such county shall respectively be entitled to have Printing and distribution of totals of gross and rateable value in valuation list.

(*c*) See sect. 22, p. 277 ; and sect. 42 (9), (10), *post*, as to the time of sitting of special sessions to hear appeals, and sect. 30, p. 281 ; and sect. 42 (12), (13), (14), *post*, as to the time of sitting of justices in assessment sessions to hear appeals. See also 38 & 39 Vict. c. 33, *post*, as to totals of values of certain exempted property being inserted in valuation lists.

(*d*) That is, sent as directed by sect. 14, *supra*. The time mentioned for the return of the list is in sect. 42 (11), *post*.

printed copies of such totals on payment of one penny for each copy of all the said totals (*a*).

Appeals.—Special Sessions.

Holding of special sessions to hear appeals.

18. In every petty sessional division in the metropolis the justices of the peace acting in and for such division shall, in every year at the time mentioned in this Act, hold a special sessions for hearing appeals under this Act against the valuation lists of the several parishes within such division.

Persons entitled to appeal to special sessions.

19. Any ratepayer and any overseers of a parish, so far as respects the valuation list of such parish, and any surveyor of taxes, so far as respects the valuation list of any parish in the petty sessional division, may, if he or they feel aggrieved by any decision of the assessment committee on an objection made with respect to the unfairness or incorrectness of the valuation of any hereditament included in such list, but not otherwise, appeal against such decision to the special sessions. The right to appeal to special sessions shall not deprive a person of any other right of appeal conferred on him by this Act (*b*).

Extent of jurisdiction of special sessions.

20. The justices in special sessions under this Act shall not hear any appeal touching any matter with respect to which notice of appeal to the general assessment sessions has been served in manner prescribed by this Act, and shall not hear any appeal touching any

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(*a*) "Before the 1st December," is the time mentioned, see sect. 42 (11), *post*.

(*b*) As to other rights of appeal, see sect. 32, p. 281, and sect. 40, p. 286, *post*.

By sect. 52 (9), *post*, notices of appeal to special sessions shall be given on or before the 21st November in the same year.

part or alter any part of the valuation list except the part relating to the value of an hereditament; and a decision of such justices and an alteration by them of the value of an hereditament in the valuation list of any parish shall affect only the rights of the ratepayers of such parish among themselves, and shall not of itself in any way alter the totals of the gross or rateable value of such list as settled by the assessment committee, but may form a reason for an appeal against such totals to the assessment sessions and superior court as hereinafter mentioned (*c*).

Powers of special sessions.

21. The justices in special sessions under this Act may adjourn their court from time to time, as may be necessary for the performance of their duties under this Act. They shall have with respect to the attendance and examination of witnesses, the taking of evidence, the keeping order in court, the enforcing their orders, and all matters necessary for the execution of their duties under this Act, the same powers and jurisdiction as if they were assembled in petty sessions.

Notice by special sessions of time of sitting.

22. The justices in special sessions shall send a written notice of the time and place at which they will hold a special sessions for the purpose of hearing appeals with respect to any parish to the overseers of such parish, who shall publish it as soon as it is received by them (*d*).

(*c*) As to service of notice of appeal to the general assessment sessions, see sect. 33, *post*, p. 282; and the giving notice of such appeal, sect. 42 (12), *post*.

The reasons for appeal to the assessment sessions are stated in sect. 32 (1), (2), (3), *post*. p. 282; and sect. 40, *post*, p. 286, provides for appeals to a superior court from decisions of assessment sessions on points of law.

(*d*) As to the service of notices, see sect. 65, *post*; and as to the publication of the notice in this section mentioned, see sect. 66, *post*.

Appeals.—Assessment Sessions.

Court of general assessment sessions.

23. For the purpose of hearing appeals under this Act against any valuation list in the metropolis, the justices of the peace appointed as hereinafter mentioned shall at the time mentioned in this Act assemble and hold a court of general assessment sessions (in this Act referred to as the assessment sessions) (*a*).

Appointment of members of general assessment sessions.

24. The justices who are to form the court of general assessment sessions shall be appointed annually as follows:—

1. Three justices of the peace of the county of Middlesex (of whom the assistant judge of the court of the sessions of the peace of the said county shall be one) shall be appointed by the court of general quarter sessions or general sessions of the peace for the county of Middlesex:
2. Two justices of the peace of the county of Surrey shall be appointed by the court of general or quarter sessions of the peace for the county of Surrey:
3. Two justices of the peace of the county of Kent shall be appointed by the court of general sessions for the county of Kent:
4. Two justices of the peace of the city of London shall be appointed by the court of the mayor and aldermen of the city of London in the inner chamber.

The said justices shall be appointed in the month of October in every year, or at such other time as may be from time to time fixed by the appointing body. They

(*a*) The grounds of appeal are set out in sect. 32 (1), (2), (3), *post*, p. 282.

shall hold office for twelve months, beginning on the first of November, and any casual vacancy may be filled up by the appointing body.

Officers of general assessment sessions.

25. The justices in assessment sessions may from time to time appoint, with the consent of the Poor Law Board, a clerk and other persons to assist them in the performance of their duties under this Act, and may assign him or them such remuneration and such duties as the Poor Law Board may approve (*b*).

Chairman, quorum and powers of general assessment sessions.

26. The justices in asessment sessions may from time to time appoint one of their own number to act as their chairman, who shall have a second or casting vote, and they may from time to time determine on their quorum so that it be not less than three.

The court of general assessment sessions may adjourn from time to time, as may be necessary for the performance of their duties under this Act, and (for the purpose of giving judgment only) from place to place in the metropolis. They shall with respect to the attendance and examination of witnesses, to the taking of evidence, to the keeping of order in court, to contempt of court, to the enforcement of their orders, and to all matters necessary for the execution of their duties under this Act, have the same jurisdiction and powers and be in the same position as a court of quarter sessions; and, subject to the express provisions of this Act, shall conduct their proceedings, be convened, and be in the same position, as near as may be, as if they were a court of quarter sessions.

Orders as to proceedings and

27. The justices in assessment sessions may, with the approval of one of Her Majesty's principal secretaries

(*b*) See sect. 50, *post*, as to the expenses of the assessment sessions.

recognizances on appeals.

of state, make orders from time to time for the purpose of regulating the proceedings on appeals to them under this Act, and for determining recognizances (if any) to be entered into by appellants in the case of appeals either to special sessions or to the assessment sessions.

Fees on appeal under Act.

28. The justices in assessment sessions may make a table of the fees which in their opinion should be paid to the clerks of special sessions and to the clerk of assessment sessions in the case of appeals under this Act, and shall lay such table before one of Her Majesty's principal secretaries of state in the same manner as the justices at quarter sessions may make and lay before such secretary of state a table of fees, and all the provisions of section thirty of the Act of the session of the eleventh and twelfth years of Her Majesty's reign, chapter forty-three (which section relates to a table of fees and to the prohibition of clerks taking other fees), shall apply in the case of a table of fees made, and the business done by the said clerks under this Act.

All fees paid in the case of appeals to the assessment sessions shall be paid to the account of the receiver of the metropolitan common poor fund, and shall be so paid and taken and accounted for in such manner as the Poor Law Board may from time to time by order prescribe.

Places for hearing appeals.

29. The justices in assessment sessions shall from time to time appoint the place in the metropolis where the appeals relating to each parish in the metropolis are to be heard, and may, if they think fit, divide the metropolis into districts for the purpose of appeals, and appoint one or more places for every such district (*a*).

(*a*) See sect. 63, *post*, as to the use of public rooms, such as vestry rooms or public board rooms for hearing appeals in.

Public notice of holding courts to be given.

30. The justices in assessment sessions shall cause public notice to be given of the several times at which they will sit at the several places appointed for the hearing of appeals; such notice may be given under the hand of their clerk, and shall be given by advertisement in some newspaper circulating generally in the metropolis, and by sending a copy of such notice to every surveyor of taxes in the metropolis, to every assessment committee which would have a right to appeal at such court, and to the overseers of every parish to which any appeal relates, and to all the parties to the appeal.

The overseers shall publish the notice as soon as it is received by them (*b*).

Summons of certain officers as witnesses.

31. The justices in assessment sessions may order any clerk to the commissioners of taxes, any surveyor of taxes, clerk of assessment committee, overseer, assistant overseer, or like officer in the metropolis to produce any documents relating to rates or taxes which such justices may consider necessary for determining an appeal, and do not relate to profits of trade or of concerns in the nature of trade.

Any person who refuses, after tender of a reasonable sum for his expenses, to obey any order under this section shall be liable (on summary conviction before the justices in assessment sessions or any other two justices) to a penalty not exceeding five pounds.

Persons entitled to appeal to assessment sessions.

32. Any ratepayer and any surveyor of taxes, and any overseer, with the consent of the vestry of his parish, who may feel aggrieved by any decision of the

(*b*) As to the times for hearing appeals, see sect. 42 (13), (14), *post*, and sect. 66, *post*, as to the publication of notices by overseers.

assessment committee, on an objection made before them to which he was a party, or by any decision of special sessions, whether he was a party or not, may appeal against such decision to the assessment session.

Any assessment committee in the metropolis, or in the county in which the parish to which the appeal relates is situate, any overseers in the metropolis or such county, with the consent of the vestry of their parish, any ratepayer in the metropolis or such county, and any body of persons authorized by law to levy rates or require contributions payable out of rates in the metropolis or such county, may appeal to the assessment sessions, if they or he feel aggrieved by reason—

(1.) of the total of the gross value of any parish being too high or too low;

(2.) of the total of the rateable value of any parish being too high or too low; or

(3.) of there being no approved valuation list for some parish (*a*).

Proceedings on Appeals.

Notice of appeal to special or assessment sessions.

33. Notice in writing of every appeal, whether to special sessions or the assessment sessions, specifying the correction which the appellant desires to have made in the valuation list, must be served, within the time in this Act mentioned, on the following persons; namely,

in all cases on the surveyor of taxes of the district to which the appeal relates, and on the clerk of the assessment committee which approved the list wholly or partly questioned by the appeal:

(*a*) As to appeals by owners see 32 & 33 Vict. c. 41, s. 13, *ante*, p. 263, and sect. 70, *post*.

when the appeal relates to the unfairness or incorrectness of the valuation of, or to the omission of an hereditament occupied by any person other than the appellant, or to the incorrectness of any matter stated in the list with respect to any such hereditaments, then on such person:

if an assessment committee or a surveyor of taxes is the appellant, then also on the overseers of the parish to which the appeal relates:

Provided that it shall not be necessary to serve any notice of appeal on the surveyor of taxes in any case in which the appeal relates only to the rateable value of any hereditament.

The clerk of the assessment committee, on receiving notice of an appeal, shall forthwith serve notice thereof on the clerk of the special sessions or of the assessment sessions, as the case may require (*a*).

Sessions to hear and determine appeals, and alter list accordingly.

34. The justices in special sessions and in assessment sessions respectively shall, in open court, hear and determine all appeals brought before them in such order as they may respectively from time to time appoint. They may adjourn the hearing from time to time, and to any day not later than the day before which all appeals to them are required by this Act to be heard; and in the case of assessment sessions for the purpose of obtaining the decision of any superior court to any day necessary for that purpose; and if from accident or mistake due notice of appeal has not been given, or if an additional notice of appeal appears to be required, they may, if they think it just, order notice of appeal to be given. They may confirm or alter the valuation list, so far as it is questioned by the appeal,

(*a*) See sect. 42 (9), (12), *post*, as to the time for giving notice of appeal under this section.

in such manner as they think just, but shall not make any alteration in contravention of this Act. The clerk of the assessment committee, or some deputy allowed by the assessment committee, shall attend the court with the valuation list to which the appeal relates, and any alteration shall be made by the justice acting as chairman of the sessions in that list and the said justice shall place his initials against such alteration (*a*).

Making of valuation list where none approved.

35. If it appears to the justices in assessment sessions on any appeal that there is no approved valuation list for some parish, they may appoint some proper person (with such remuneration as they may appoint) to make a valuation list. Such person shall have for that purpose the same powers and duties as overseers.

The valuation list so made shall be deposited and otherwise made known to the person interested in such manner as the court may direct, but in manner as near as may be as is provided in this Act with respect to the list originally made.

The costs of making such valuation list shall be paid by the assessment committee who failed to approve the list, and shall be deemed part of their expenses under the principal Act (*b*).

Assessment sessions may, on application of party to appeal, order valuation.

36. If any of the parties to the appeal apply to the justices in assessment sessions to direct a valuation of any hereditament with respect to which any appeal may be made, and if such applicant or applicants give

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(*a*) As to the day before which all appeals are to be heard, see sect. 42 (10), (13), *post*.

(*b*) As to the "powers and duties of overseers, see sect. 6, *et seq.*, *ante*, p. 271.

As regards the deposit of valuation lists, see sect. 7, *ante*, p. 272, and the sections of 25 & 26 Vict. c. 103, therein mentioned. And as regards the expenses of the committee, see sect. 38 of the same Act.

such security as the court think proper to pay the costs of the valuation, the court may, in their discretion, appoint some proper person to make such valuation (*c*).

Adjournment to receive valuation list or valuation.

37. Where the court appoint a person to make a valuation list or a valuation, they may fix some subsequent day, either before or after the day before which all appeals are required by this Act to be heard, for receiving such valuation list or valuation, and may adjourn the hearing to that day (*d*).

Valuation to be in writing, person making it to have power to enter.

38. The person so appointed to make a valuation shall make his valuation in writing signed by him, showing the particulars of the hereditaments comprised therein, and the amounts at which he has valued the same respectively.

Such person may at all reasonable times, with or without assistants, enter upon any of the hereditaments directed to be valued, and may do thereon all acts necessary for completing the valuation.

Costs of appeal.

39. The costs of any appeal, including the costs of any such valuation as aforesaid, shall be in the discretion of the justices in special or assessment sessions (as the case may be), and shall be awarded by them to be paid by such parties to the appeal, and in such proportions, as they think just.

Costs (including the costs of making a valuation) so ordered to be paid may be recovered as if they had been awarded by a court of quarter sessions, and when ordered to be paid by parties other than a ratepayer shall be paid as in this Act mentioned (*e*).

(*c*) See sect. 48, *post*, and sect. 62, *post*.

(*d*) As to the day before which appeals are to be heard, see sect. 42 (10), (13), *post*.

(*e*) By 12 & 13 Vict. c. 45, s. 18, the party entitled to costs

Appeal from decision of assessment sessions on points of law.

40. The same proceedings may be had by special case and *certiorari* or otherwise, for questioning any decision of the justices in assessment sessions, as may be had for questioning any decision of the justices in general or quarter sessions, provided that every such *certiorari* shall be sued out within three months after the decision is given.

At any time after notice given of appeal under this Act to the assessment sessions, it shall be lawful for the parties, by consent and by order of any judge of one of the superior courts of common law at Westminster, to state the facts of the case in the form of a special case for the opinion of any of those courts, and to agree that a judgment in conformity with the decision of that court, and for such costs as that court may adjudge, may be entered on the application of either party at the meeting of the justices in assessment sessions next or next but one after such decision has been given, and such judgment may be entered accordingly, and shall be of the same effect in all respects as if the same had been given by the assessment sessions upon an appeal duly brought before them and adjourned; and the justices shall, if necessary,

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upon producing a copy of the order under the hand of the clerk of the peace or his deputy, and proof of the refusal or neglect to obey the order may obtain from the Court of Queen's Bench or any judge thereof at chambers, in term or vacation, a writ of *certiorari* to remove it; and upon its removal the party may sue out a *fi. fa.*, *elegit*, or *ca. sa.* upon it, in the same manner as upon a rule of one of the superior courts for the payment of money: *Reg.* v. *Huntley*, 23 L. J. M. C. 106; 3 E. & B. 172; 18 J. P. 520; or such costs may be recovered in the manner provided for the recovery of costs upon an appeal against an order of conviction by 11 & 12 Vict. c. 43, s. 27, that is to say, the sessions may order the costs to be paid to the clerk of the peace to be paid by him over to the party; and the latter, upon obtaining a certificate from the clerk of the peace, that the costs have not been paid to him, any justice or justices of the county will grant a distress warrant to levy them, and in default of payment may issue a warrant of commitment.

hold a sessions or an adjourned sessions for this purpose.

Notice in writing of the decision of any superior court in pursuance of this section shall be served by the clerk of the assessment sessions on the assessment committee which approved the list questioned on the appeal to such court (*a*).

Notice of alteration of list to be sent to overseers.

41. Notice of every alteration in the valuation list, which alteration is made in consequence of any decision on any appeal to the special sessions, assessment sessions, or a superior court, shall, as soon as possible, be sent in writing by the clerk of the assessment committee to the overseers and surveyor of taxes of the parish and district respectively to which the list which is so altered relates, and such alteration shall be entered by the clerk of the assessment committee by the overseers on the duplicates respectively deposited with them.

Notice of every alteration in the total of the gross and rateable value of any valuation list, which alteration is made in consequence of any decision on any appeal to the assessment sessions or a superior court, shall as soon as possible be sent in writing by the clerk of the assessment committee to the clerk of the managers of the Metropolitan Asylum District, and the clerk of such managers shall send in writing such altered total to every person and body of persons who has power to levy or make any rate or assessment or require any contribution based on such total.

Times for Proceedings.

Times within which proceedings in making

42. With respect to the times within which proceedings under this Act and the Acts incorporated herewith

(*a*) As to special case, see 12 & 13 Vict. c. 45, s. 11, and as to the mode of stating it, see *Archbold's Quarter Sessions*, 3rd edit. by Lovesey, p. 60.

valuation list are to be done.

are to be done, the following provisions shall have effect; that is to say (*a*),

(1.) The overseers shall make and deposit the valuation list before the first of June in the first year after the passing of this Act (*b*):

(2.) The overseers shall transmit the valuation list to the assessment committee not sooner than fourteen and not later than seventeen days after notice is given of the deposit of such list (*c*):

(3.) Notice of any objection by any person other than the surveyor of taxes and the overseers shall be given before the expiration of twenty-five days after the list is deposited (*d*):

(4.) The assessment committee shall revise the valuation list before the first of October in the same year, and before the same day, but not less than sixteen days after the transmission of the list to them by the overseers, shall

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(*a*) Where public convenience requires it, a statute as to time is to be construed as directory: *Lefeuvre* v. *Miller*, 26 L. J. M. C. 175; *Reg.* v. *Fordham*, 11 Ad. & E. 73; *Reg.* v. *Rochester*, 7 E. & B. 910.

The dates in 32 & 33 Vict. c. 67, s. 42, are directory and not imperative, and the Acts directed may be validly done at later dates. The court held that upon the true construction of the Act, and keeping in view its object, which was to have one uniform list every five years, it would be impossible to assume that the legislature intended that non-compliance with the provisions of sect. 42 should defeat the valuation list. The court would express no opinion, but it might be that an action would lie against the assessment committee, if, through an intentional act on their part, the right to appeal was destroyed by time: *Reg.* v. *Ingall*, 41 J. P. 181; 46 L. J. M. C. 113; 35 L. T. (N.S.) 552.

(*b*) See sects. 6, 7, *ante*, pp. 272, 273; and 25 & 26 Vict. c. 103, s. 17, *ante*, p. 231.

(*c*) As to the notice of deposit of valuation list, see sect. 7, *ante*, p. 273; and 25 & 26 Vict. c. 103, s. 17, *ante*, p. 231.

(*d*) See sect. 7, *ante*, p. 273; and 25 & 26 Vict. c. 103, s. 18, *ante*, p. 231.

hold a meeting for hearing objections to such list (*e*):

(5.) The assessment committee shall give notice of a meeting for hearing objections to a list not less than sixteen days before such meeting (*e*):

(6.) Notice of objection with respect to any list by the surveyor of taxes and by the overseers shall be given not less than seven days before the meeting at which objections to such list will be heard by the assessment committee (*f*):

(7.) The assessment committee shall send the valuation list to be re-deposited within three days after it is approved by them, and shall appoint a day not less than fourteen nor more than twenty-eight days after such re-deposit for hearing objections to the alterations, of which objections seven days' notice shall be given by the objector (*g*):

(8.) The assessment committee shall finally approve and send the valuation list to the overseers, and the clerk of the managers of the metropolitan asylum district, before the first of November in the same year (*h*):

(9.) Notices of appeal to special sessions shall be given on or before the twenty-first of November in the same year (*i*):

(10.) The justices may hold the special sessions at any time after the thirtieth of November in

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(*e*) See sect. 7, *ante*, p. 272; and 25 & 26 Vict. c. 103, s. 19, *ante*, p. 232.

(*f*) See sects. 7, 12, *ante*, pp. 272, 273; and 25 & 26 Vict. c. 103, ss. 18, 19, *ante*, pp. 231, 232.

(*g*) See sect. 7, *ante*, p. 272; and 25 & 26 Vict. c. 103, s. 21 *ante*, p. 234.

(*h*) See sect. 14, *ante*, p. 274.

(*i*) See sect. 33, *ante*, p. 282.

the same year, which will enable them to determine all appeals before the ensuing first of January (*a*) :

(11.) The clerk of the said managers shall send out the printed totals before the first of December in the same year, and shall return the valuation list to the assessment committee not sooner than fourteen nor later than twenty-one days after the totals are sent out (*b*) :

(12.) Notices of appeals to assessment sessions shall be given on or before the fourteenth of January in the same year (*c*) :

(13.) The justices may hold the assessment sessions at any time after the first of February in the same year, which will enable them to determine all appeals (except where a valuation list or valuation is ordered) before the ensuing thirty-first of March (*d*) :

(14.) Notice of the times at which the assessment sessions will be held at each place shall be given by the clerk ten days at least before the first court is held (*d*) :

Effect of Valuation List.

Duration of valuation list.

43. The valuation list as approved by the assessment committee, and if altered on any appeal under this Act to any sessions or a superior court, as so altered, shall come into force at the beginning of the year (commencing on the sixth of April) succeeding that in which it is made, and shall last for five years,

(*a*) See sect. 18, *ante*, p. 276.
(*b*) See sects. 16, 17, *ante*, p. 275.
(*c*) See sect. 33, *ante*, p. 282.
(*d*) See sect. 30 *ante*, p. 281. The rules of the assessment sessions with regard to appeals will be found *post*, p. 334.

subject to any alterations that may be made by any supplemental or provisional list as hereinafter mentioned (*e*).

Rate to be levied notwithstanding appeal.

44. Notwithstanding any appeal under this Act which may be pending at the commencement of the year, the valuation list shall come into force unaltered, and every assessment, contribution, rate, and tax in respect of which the valuation list is conclusive shall be made, required, levied, and paid in accordance with such valuation list; and where in consequence of the decision of any appeal under this Act to assessment sessions or a superior court an alteration in such valuation list is made which alters the amount of the assessment, contribution, rate, or tax levied thereunder, the difference, if too much has been paid, shall be repaid or allowed, and if too little, shall be deemed to be arrears of the assessment, contribution, rate, or tax (except so far as any penalty is incurred on account of arrears), and shall be paid and recovered accordingly (*f*).

Valuation lists to be conclusive for purposes of certain rates, taxes, and qualifications.

45. The valuation list for the time being in force shall be deemed to have been duly made in accordance with this Act and the Acts incorporated herewith, and shall for all or any of the purposes in this section mentioned be conclusive evidence of the gross value and of the rateable value of the several hereditaments included therein, and of the fact that all hereditaments

(*e*) Sects. 46 and 47, *post*, pp. 293, 295, provide for the revision of the valuation lists.

Further, with reference to this section and sects. 46 and 47, see 38 & 39 Vict. c. 33, ss. 2, 3, and 4, *post*.

(*f*) The purposes for which the valuation list shall be conclusive are in sect. 45, *infra*. As to appeals to the assessment sessions, see sect. 34, *ante*, p. 283; and to a superior court, sect. 40, *ante*, p. 286.

required to be inserted therein have been so inserted; that is to say,

(1.) For the purpose of any of the following rates which are made during the year that the list is in force, namely, the county rate, the metropolitan police rate, the church rate, the highway rate, the poor rate, the police, sewers, consolidated and other rates in the city of London, the sewers, lighting, general, and other rates levied by order of district boards or vestries, the main drainage improvement and other rates, and sums assessed on any part of the metropolis by the Metropolitan Board of Works, assessments for contributions under the Metropolitan Poor Act, 1867, and every other rate, assessment, and contribution levied, made, and required in the metropolis on the basis of value:

(2.) For the purpose of any of the following taxes which become chargeable during the year that the list is in force; namely,

14 & 15 Vict. c. 36 &c.

(*a.*) The tax on houses levied under the House Tax Act and the Acts therein incorporated or referred to:

5 & 6 Vict. c. 35, &c.

(*b.*) Any tax assessed in pursuance of the Income Tax Act, and any Acts continuing or amending the same, on any lands, tenements, and hereditaments, in all cases where the tax is charged on the gross value and not on profits:

(3.) For the purpose of determining, so far as it is applicable, the value of any hereditament included therein for the purposes of the Acts relating to the sale of exciseable liquors, to the qualification of a juror, to the qualification of a vestryman, and an auditor of

accounts under the Metropolis Management Act, 1855, and to the qualification of a guardian, and of a manager under the "The Poor Law Amendment Act, 1834," or the "Metropolitan Poor Act, 1867," at any time at which such value is required to be ascertained:

And in construing the Metropolitan Police Act and the Acts amending the same, the last valuation for the time being acted upon in assessing the county rate shall be deemed to mean the valuation list for the time being in force: 10 Geo. 4, c. 41.

And in construing the County Rate Act and Acts referring to the valuation, estimate, basis, or standard for the county rate, the valuation, basis, or standard shall be deemed to be the rateable value stated in such list: 15 & 16 Vict. c. 81, &c.

And in construing the House Tax Act and the Acts therein incorporated or referred to the full and just yearly rent shall be deemed to be the gross value stated in such list: 14 & 15 Vict. c. 36, &c.

And in construing the Income Tax Act and any Acts continuing or amending that Act, with respect to Schedules A. and B. thereof, annual value shall be deemed to mean the gross value stated in such list. 5 & 6 Vict. c. 35, &c.

Revision of Valuation List.

46. Every valuation list shall be revised in manner directed by this Act, and such revision in every period of five years (the first of such periods beginning with the sixth of April one thousand eight hundred and seventy-one) shall be conducted as follows: Mode of revising valuation list.

(1.) In each of the first four years of such period a supplemental list shall, if necessary, be made out in the same form as the valuation list,

and shall show all the alterations which have taken place during the preceding twelve months in any of the matters stated in the valuation list, but shall contain only the hereditaments affected by such alterations. If no alteration has taken place which makes a supplemental list necessary, the overseers shall send a certificate to that effect to the assessment committee in place of such list, which certificate may be in the form contained in the second schedule to this Act:

(2.) In the fifth year of every such period the overseers shall make a new valuation list:

(3.) The same regulations shall be observed and the same proceedings shall be had in the case of a supplemental list and a new valuation list as are directed by this Act and the Acts incorporated herewith in the case of the valuation list made in the first year after the passing of this Act (*a*):

(4.) A supplemental list and a new valuation list shall come into force at the beginning of the year succeeding that in which they are respectively made, in the same manner and subject to the same conditions as the valuation list made in the first year after the passing of this Act (*b*):

(5.) In each of the last four years of such period the valuation list which was in force on the day before the commencement of each such year, together with and as altered by the supplemental list, if any, which comes into force at the commencement of such year, shall be

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(*a*) See sects. 6 and 7, *ante*, pp. 271, 272.
(*b*) See sect. 43, *ante*, p. 290, with reference to this sub-section.

the valuation list which is in force during that year:

(6.) A new valuation list when it comes into force shall supersede the valuation list which was in force during the fifth year of such period.

Provision for valuing a house built between the times at which the valuation list is made.

47. If in the course of any year the value of any hereditament is increased by the addition thereto or erection thereon of any building, or is from any cause increased or reduced in value, the following provisions shall have effect:

(1.) The overseers of the parish in which such hereditament is situate may, and on the written requisition of the assessment committee or of any ratepayer of the union or of the surveyor of taxes for the district shall, send to the assessment committee a provisional list containing the gross and rateable value as so increased or reduced of such hereditament:

(2.) A copy of the requisition shall be sent by the person making it to the clerk of the assessment committee, and if within fourteen days after the requisition has been served on the overseers they make default in sending such provisional list he shall forthwith summon the assessment committee, and the assessment committee shall appoint a person to make such provisional list in the same manner as is in this Act provided in the case of the overseers failing to transmit a valuation list (*c*):

(3.) On the receipt of the list the clerk of the assessment committee shall serve on the surveyor of taxes for the district a copy of the list, and shall serve on the occupier of any heredita-

(*c*) See sect. 13, *ante*, p. 273.

ment to which the list relates a copy of so much thereof as relates to that hereditament. Every copy shall be accompanied by a notice specifying a day, being not less than fourteen days after the date of the service of the notice on or before which any objection to the provisional list may be made, and stating the mode in which an objection is to be made. Such copy and notice shall be served in the same way as notices by an assessment committee are served (*a*) :

(4.) An objection may be made to any such provisional list by the said occupier, and by the surveyor of taxes, or by either of them, by notice thereof in writing being served on the clerk of the assessment committee, on the overseers, on the surveyor of taxes, and on the occupier, or on such of them as the case may require :

(5.) The clerk of the assessment committee, on the receipt of the notice of any objection, shall forthwith summon a meeting of the committee, and give notice of the time and place of such meeting to the overseers, to the surveyor of taxes, and the occupier :

(6.) The committee shall hear and determine on the objection in the same manner as if it were an objection to a valuation list, and may make such order as they think just (*b*) :

(7.) If no objection is made, then on the expiration of the time for making objections, or if an objection is made then as soon as the assess-

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(*a*) See sect. 65, *post*, p. 306.

(*b*) See sect. 11, *ante*, p. 273, and 25 & 26 Vict. c. 103, s. 18, *ante*, p. 231.

ment committee have determined on the objection, the assessment committee shall cause a copy to be made of the provisional list. with any alteration made in it by the committee, and shall return the list, and the copy thereof, after being dated and signed by their clerk, to the overseers:

(8.) A provisional list, signed as aforesaid, shall have operation from the date of the service by the clerk of the assessment committee of a copy of the list and notice on the occupier, and shall continue in force until the first list (supplemental or other) which is subsequently made comes into force:

(9.) Upon a provisional list coming into operation the overseers shall make such entries in the rate book for the then current poor rate as will bring the same into conformity with such list, and shall also enter therein the date at which such list is to come into operation, and shall charge the occupier of such hereditament with a proper proportion of such current poor rate, regard being had to the time which has elapsed between the making of such rate and the said date and to the rateable value stated in such provisional list, and such occupier shall be considered as actually rated for such sum from the same date, and be liable to pay the same, and the same may be enforced accordingly:

(10.) A provisional list during the time that it is in force shall be deemed to form part of the valuation list for the time being in force, and shall (so far as is necessary) be substituted for so much of that valuation list as relates to the same hereditament, and every rate and tax in

respect of which the valuation list is conclusive, which are respectively made or charged after the provisional list comes into force, and the proportion of the current rate charged as before provided in this section, shall be levied accordingly; but if when the next revision of the valuation list takes place the list as approved and altered on appeal contains a smaller value for the hereditament comprised in a provisional list than the value stated in such provisional list, the amount of rate or tax which has been overpaid in consequence of the larger value having been stated shall be repaid or allowed:

(11.) Nothing in this section shall affect the value on which any rate is made or sum is assessed or contribution required which is made, assessed, or required on the totals of the gross or rateable value of parishes or unions.

Expenses.

Costs of appeal, &c

48. The costs of an appeal awarded against or incurred by any assessment committee or overseers shall be deemed to be expenses incurred under this Act and the Acts incorporated herewith, and shall be raised and paid accordingly.

Any costs or expenses awarded against or incurred by any surveyor of taxes shall be defrayed in the same manner as expenses are directed to be defrayed by the Acts relating to the taxes in respect of which the valuation list is made conclusive (*a*).

(*a*) See 25 & 26 Vict. c. 103, s. 38, *ante*, p. 243, *post*; also sect. 62, *post*, p. 305.

49. The commissioners of inland revenue may make such allowances as they think fit for remunerating any person employed by them in the execution of this Act, and for the discharge of any costs or expenses incurred by him. Inland revenue may make allowances for expenses of Act.

50. The expenses of the assessment sessions and such remuneration as the Poor Law Board may from time to time allow to the clerk of the managers of the metropolitan asylum district, the clerk of the assessment sessions, and persons appointed to assist the assessment sessions as provided by this Act, and such costs and expenses incurred by such clerks and persons under this Act as the Poor Law Board may allow, after such audit as the Poor Law Board may direct, shall be paid by the receiver of the metropolitan common poor fund out of any moneys for the time being in his hands, and shall be paid at such times and in such manner and upon such precept of the Poor Law Board as the Poor Law Board may from time to time prescribe, and the Poor Law Board may require contributions for the purpose of raising such remuneration, expenses, and costs. Expenses.

Rules for formation of Valuation List.

51. The valuation list shall be made out in the form given in the second schedule to this Act. Form and contents of valuation list.

The overseers shall not include in such valuation list any hereditaments (except tithes or payment in lieu of tithes) which are charged according to rule two (*b*) in

(*b*) The following is rule No. 2, in 5 & 6 Vict. c. 35, s. 60 :— Manner of charging certain properties, &c.
The annual value of all the properties hereinafter described shall be understood to be the full amount for one year, or the average amount for one year of the profits received therefrom within the respective times herein limited :

5 & 6 Vict. c. 35.

section sixty of the Income Tax Act, but shall include tithes and payments in lieu of tithes and every hereditament in their parish, and shall enter every hereditament in the valuation list in accordance with the classes mentioned in the third schedule to this Act, so that the deductions to be made in ascertaining the rateable value may be calculated in accordance with that schedule.

Deductions for rateable value.

52. The per centage of rate deductions to be made from the gross value in calculating the rateable value for the purposes of this Act shall not exceed the

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Ecclesiastical dues.

Second.—Of all dues and money payments in right of the church or by endowment, or in lieu of tithes (not being tithes arising from lands), and of all teinds in Scotland, on the like average:

Manors.

Fourth.—Of manors or other royalties, including all dues and other services, or other casual profits (not being rents or other annual payments reserved or charged), on an average of the seven preceding years, to be charged on the lord of such manor or royalty, or person renting the same:

Fines.

Fifth.—Of all fines received in consideration of any demise of land or tenements (not being parcel of a manor or royalty demisable by the custom thereof) on the amount so received within the year preceding by or on account of the party; provided that in case the party chargeable shall prove, to the satisfaction of the commissioners for general purposes in the district, that such fines, or any part thereof, have been applied as productive capital, on which a profit has arisen or will arise otherwise chargeable under this Act, for the year in which the assessment shall be made, it shall be lawful for the said commissioners to discharge the amount so applied from the profits liable to assessment under this rule:

Other profits from lands.

Sixth.—Of all other profits arising from lands, tenements, hereditaments, or heritages in the actual possession or occupation of the party to be charged, and not before enumerated, on a fair and just average of such number of years as the said commissioners shall, on the statement of the party to be charged, judge proper (except such profits as may be liable to deduction in pursuance of the Ninth or Tenth Rule in No. 4, hereinafter mentioned), to be charged on the receivers of such profits, or the persons entitled thereto.

Note: paragraphs 1 and 3 Rule No. 2, were repealed by section 77, schedule 5, *post*.

amounts in the third schedule to this Act, so far as the same are applicable.

Amount of gross value specified by the surveyor of taxes to be inserted, unless disproved.

53. When a surveyor of taxes gives notice of objection or of appeal, the amount specified in the notice as being in his judgment the gross value of any hereditament referred to in the notice shall be inserted in the valuation list by the assessment committee, special sessions, or assessment sessions, unless it is proved to the satisfaction of the assessment committee, special sessions, or assessment sessions, that such amount ought not to be so inserted.

Saving of exemptions and exceptional principles of valuation.

54. Nothing contained in this Act or the Acts incorporated herewith shall affect any exemption or deduction from or allowance out of any rate or tax whatever, or any privilege of or provision for being rated or taxed on any exceptional principle of valuation.

Returns.

Occupier to make returns.

55. In the first year after the passing of this Act, and in every subsequent year in which a new valuation list is made, or in the month of March preceding any such year, every person who is liable to be charged with any rate or tax in respect of which the valuation list is made conclusive shall, when required, make to the overseers of his parish such statement or return as a person chargeable under the Income Tax Act and Acts amending the same is bound to make (*a*).

Surveyor of taxes to supply

56. For the purpose of securing the proper making of such returns, the surveyor of taxes shall in the

(*a*) The purposes for which the valuation lists shall be conclusive are in sect. 45, *ante*, p. 291.

notices and forms for returns to overseers, who are to serve them.

month of February preceding send to the overseers of each parish in his district a sufficient number of printed forms and notices, and the overseers, within a month after the receipt thereof, shall serve a notice and form on every person in their parish required by this Act to make a return; and every person required by this Act to make a return shall make it within twenty-one days after the service of a notice and form on him.

The forms and notices shall be such as are prescribed by the Income Tax Act or the Acts amending the same, or as the commissioners of Her Majesty's treasury may from time to time prescribe, and any such form duly filled up and signed shall be deemed to be a sufficient return.

The return shall be delivered to the overseers of each parish, and together with the valuation list shall be sent by them to the surveyor of taxes, and by the surveyor of taxes to the assessment committee.

Assessment committee may require returns from owner and occupier.

57. An assessment committe may, by order, require any person who is the owner or occupier or reputed owner or occupier of any hereditament in their union to send them a return in writing of all or any of the following things; viz., of the rent receivable or payable by him (as the case may be) for such hereditament, and of the person entitled to any tithe rentcharge charged on such hereditament, and of the amount of the same, and of the several persons by whom any tithe rentcharge is paid to him, and of the amounts paid by each such person, and of any other particulars respecting such hereditament as are required for the due execution of this Act and the Acts incorporated herewith. And every such owner or occupier shall obey such order within fourteen days after the service thereof on him.

58. If any person wilfully refuses or neglects to make any return lawfully required under this Act within the times respectively limited by this Act in that behalf, he shall be liable, on summary conviction, to a penalty not exceeding five pounds. Penalty for no or false returns.

If any person wilfully makes or causes to be made a false return, he shall be liable, on summary conviction, to a penalty not exceeding ten pounds (*a*).

Miscellaneous.

59. With respect to any parish which is not included in any union of parishes, and in which there is no board of guardians, the following provisions shall have effect:— Provision for cases where no guardians and where no overseers.

(1.) The assessment committee of the adjoining union shall act as the assessment committee of that parish, and where there is more than one such adjoining union the Poor Law Board shall determine the assessment committee which is to act for such parish:

(2.) Every such parish shall, for the purposes of this Act and the Acts incorporated herewith, but not for any other purpose, be deemed to be within the union of the assessment committee which acts for it:

(3.) The masters of the bench, treasurer, governors, or other body of persons in such parish, may, at the time appointed for the election of an assessment committee, appoint a person to be a member of such assessment committee in addition to the number elected under this Act and the Acts incorporated herewith:

(4.) Where there are no overseers the assessment committee shall appoint some person to

(*a*) See 33 Vict. c. 4, s. 2, as to the use of returns under this Act for income tax purposes.

perform the duties of the overseers under this Act and the Acts incorporated herewith, and may award him such remuneration as they think fit; and the person so appointed shall perform those duties, and shall, for that purpose, have all the powers of overseers:

(5.) A proportionate share of the expenses of the assessment committee under this Act and the Acts incorporated herewith, and any remuneration paid to or expenses incurred by the person appointed by them under this or any other section to make a valuation list, shall be charged on such parish, and the sums so charged shall be paid by the masters of the bench, treasurer, governor, or other body of persons; and sections sixty-six, sixty-seven, and sixty-eight of the Metropolitan Poor Act, 1867, shall apply to such sums in the same manner as if the assessment committee and their clerk were the Poor Law Board and the receiver mentioned in those sections (*a*).

(*a*) The following are the sections of the Metropolitan Poor Act, 1867 (30 Vict. c. 6), above referred to:—

Collection of contributions by local authority where no poor rate.

66. In order to obtain payment of the amount of the contribution to the common poor fund payable in respect of any place where there is no poor rate, the Poor Law Board shall from time to time issue to the masters of the bench, treasurer, governors or other body or persons having the chief control or authority there, a precept requiring them or him to pay the amount of contribution therein specified, in the manner and within the time prescribed, and they or he shall pay the same accordingly (1).

Levying of local by authority.

67. In every such place the masters of the bench, treasurer, governors, or other body of persons, may levy on the several persons occupying rateable property therein the amount of contribution so paid by them or him by means of a rate in the nature of

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(1) As to this section, see 39 & 40 Vict. c. 61, s. 43.

60. Where the vestry or the guardians of any parish perform the duties of overseers with respect to a valuation list under this Act the list shall be signed by the vestry clerk or the clerk of the guardians (*b*). Provision where vestry are the overseers.

61. The guardians may, upon the application of the assessment committee, after notice sent in the manner required by the principle Act, appoint some competent person to assist the committee in the valuation of the hereditaments in the union for such period as they see fit, at a salary or settled remuneration, to be paid out of the common fund (*c*). Guardians may appoint a paid valuer to assist the assessment committee.

62. Every assessment committee, with the consent of the guardians, and every overseer, with the consent of the vestry of his parish, may, for the purposes of any application for a valuation on any appeal, give security for paying the costs of such valuation. An assessment committee may give such security and may appear on any appeal by their clerk, and shall indemnify the said clerk against all moneys, losses, and costs Assessment committee and overseers may give security for costs of valuation.

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a poor rate, and for that purpose may employ and remunerate collectors, and shall have the like powers as are for the time being vested in overseers for the purposes of the making, assessing, levying, and collecting of poor rate.

68. If any contribution to the common poor fund required by the Poor Law Board to be paid by any guardians, masters of the bench, treasurer, governors, or other body of persons, is not duly paid, the receiver shall (in addition to any other remedy which any person has for the time being against guardians), have the like remedy for recovery from them or him, in the receiver's own name, of the contribution, or of so much thereof as is not paid, as guardians have for the time being for recovery from overseers of contributions of parishes; and for that purpose the precept of the Poor Law Board requiring the contribution shall be conclusive evidence of the amount thereof, and of the liability thereto of the party sued. Remedies for recovery of contributions.

(*b*) See sect. 5, *ante*, p. 270.

(*c*) The notice under this section will be sent as required by 25 & 26 Vict c. 103, s. 16, *ante*.

paid or incurred by him in consequence of such security or appearance.

Use of public room for appeals, &c.

63. Any room maintained out of the proceeds of any rate levied wholly or partly in the metropolis may (with the consent of the person or body corporate having the control of it) be used for hearing appeals, and for other purposes of this Act.

Evidence of valuation list, &c.

64. A valuation list may be proved by the production of a duplicate or copy of such list purporting to be certified to be a duplicate or a true copy by the clerk of the assessment committee that approved it, and such certificate shall state that the alterations (if any) made in the list in consequence of the decision on any appeal under this Act have been correctly made in the duplicate or copy so produced, and the clerk on application shall furnish a copy to any overseers on payment of a sum not exceeding the rate of three shillings for every hundred entries numbered separately. A provisional list may be proved by the production of a duplicate or copy thereof purporting to be certified to be a true copy by the clerk of the committee who signed it.

Service of notices, &c., by post, &c.

65. All orders and notices under this Act and the Acts incorporated herewith shall be in writing or print, or partly in writing and partly in print, and if made or given by an assessment committee shall be sufficiently authenticated if signed by their clerk; and all orders, notices, and documents required by the same Acts to be served on or sent to any person or body of persons corporate or unincorporate may be either delivered to such person or the clerk of such body, or left at the usual place of abode of such person or clerk, or at the office of such clerk or body, or (if such abode or office

cannot on reasonable inquiry be discovered) at the premises to which the order, notice, or document relates.

They may also be served and sent by post, by a prepaid letter, addressed to such person, or to the office of such body or to their clerk, and, if sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and prepaid and put into the post.

Publication of notices by overseers.

66. Any notice required by this Act to be published by the overseers shall, on the Sunday next following the receipt of such notice, or the document to which the notice refers, and the two following Sundays, be published by them in the manner in which notice of a rate allowed by justices is required to be published.

Inspection, &c., of documents deposited with rate books.

67. Where any documents are required by this Act to be deposited in the same place in a parish in which rate books are kept, every ratepayer shall be at liberty to inspect and take copies of or extracts from such documents at any reasonable time, without fee or charge.

Valuation lists to be equivalent to rate books of parish.

68. The duplicate of the valuation list, apppoved by the assessment committee, and sent to the overseers, as directed by this Act, the notices of alterations made on any appeal under this Act, and any provisional list, shall for all purposes be deemed to be part of the rate books of the parish, and shall be produced by the overseers before the justices upon any application for allowance of rates, and on any appeal under this or

any other Act, and on any other occasion if so required, on which they are bound to produce such rate books, and any overseer who fails to produce such list in accordance with the provisions of this section shall be liable on summary conviction to a penalty not exceeding five pounds.

The duplicate of the valuation list returned to the assessment committee by the clerk of the managers of the Metropolitan Asylum District, and other documents in the possession of the assessment committee in pursuance of this Act, shall be kept at the board room or other convenient place from time to time appointed by the guardians of the same union, but shall be deemed to be in the possession of the assessment committee, and shall be produced by their clerk to the district auditor whenever required by him (*a*).

Ratepayer, &c., may inspect documents, &c., in hands of clerk of managers or assessment committee.

69. Any ratepayer, overseer, clerk of an assessment committee, or surveyor of taxes in the metropolis may, at all reasonable times, without payment, inspect and take copies of and extracts from all valuation lists and documents which in pursuance of this Act are under the control of the clerk of the managers of the Metropolitan Asylum District, or of the clerk of the assessment sessions.

Any surveyor of taxes and any guardian and any overseer in a union, without payment, and any ratepayer in a union on payment of a fee not exceeding one shilling (to be carried to the common fund), may at any reasonable time inspect and take copies of and extracts from any valuation lists, notices of objections,

(*a*) See sect. 14, *ante*, p. 274, for the direction as to sending the list to the overseers; sect. 41, *ante*, p. 287, as to notice of alterations on appeals; sect. 47, *ante*, p. 295, as to provisional lists; and sect. 16, *ante*, p. 275, as to deposit of list at office of Metropolitan Asylum District.

returns, and other documents in the possession or under the control of the assessment committee of that union.

Any clerk of an assessment committee in the metropolis may inspect and take extracts from any valuation lists in the possession or under the control of the assessment committee of any other union in the metropolis.

Any person who hinders a ratepayer, overseer, clerk of an assessment committee, or surveyor of taxes from so inspecting or taking copies of or extracts from any valuation list or document, or demands, where not authorized by this Act, a fee for allowing him so to do, shall be liable on summary conviction to a penalty not exceeding five pounds for each offence.

Owner where rated to be in position of occupier.

70. Where the owner of any hereditament is liable to be assessed to or pay any rate or tax in the place of the occupier, such owner shall for the purposes of this Act and the Acts incorporated herewith be deemed to be the occupier (*b*).

Amendment of error in rate by two justices.

71. Any person who feels aggrieved by reason of any clerical or arithmetical error in a rate in the metropolis may apply to two justices of the peace or a magistrate sitting at any police court in the metropolitan police district, who, after the applicant has given such notice to the overseers who made the rate and such persons as such justices or magistrates think just, may hear the case in like manner as in the case of summary proceedings, and amend the rate so far as respects such error.

(*b*) With regard to the subject of this section, see sect. 14, *ante*, p. 274; sects. 16, 17, *ante*, p. 264; sect. 25, *ante*, p. 279; sect. 41, *ante*, p. 287.

Omissions from the rate.

72. Whenever the name of any person liable to be rated at the time the rate is made is omitted from any rate in the metropolis, or if any person is described in any such rate by a wrong name, the overseers may, after giving to such person seven clear days notice of their intention, apply to any two justices or any police magistrate as aforesaid, who may hear the case in like manner as in the case of summary proceedings, and insert the name so omitted, or correct the name so wrongly entered, and every such insertion and correction shall operate as if it had been part of the original rate: Provided that any person whose name is so inserted or corrected in any such rate may appeal against the same at the general quarter sessions of the peace which is holden next after such insertion or correction, in like manner as he might have appealed against the rate.

Form of rate and declaration.

73. Every poor rate made in the metropolis after the fifth of April one thousand eight hundred and seventy-one shall contain the particulars specified in the fourth schedule to this Act, together with such other particulars as the Poor Law Board may from time to time by order direct, and the overseers shall sign the form of declaration which is given in that schedule before the rate is allowed by the justices. And the justices shall not allow any rate at the foot of which the said declaration has not been added and signed.

Any overseer who wilfully omits to make the said declaration or makes the same falsely shall be liable on a summary conviction to a penalty not exceeding five pounds (*a*).

(*a*) With reference to this section see the order of the Poor Law Board, dated 3rd March, 1871, which is as follows :—

To the guardians of the poor of the several unions, parishes, and places named in the schedule hereunto annexed;—

To the churchwardens and overseers of the poor of the several parishes and places comprised in the said unions, and of the several parishes and places named in the said schedule;—

To the clerk or clerks to the justices of petty sessions held for the division or divisions in which the union, parishes, and places named in the schedule above mentioned are respectively situate;—

And to all others whom it may concern.

WHEREAS by divers general and other orders addressed to the guardians of the several unions, parishes, and places named in the schedule hereunto annexed, the Poor Law Commissioners and the Poor Law Board respectively prescribed a form in which the book containing the poor rate should be kept in such unions, parishes, and places.

And whereas it is enacted by the 73rd section of the "Valuation of Property (Metropolis) Act, 1869," that every poor rate made in the metropolis after the 5th day of April, 1871, shall contain the particulars specified in the fourth schedule to that Act, and that the overseers shall sign the form of declaration which is given in that schedule before the rate is allowed by the justices.

And whereas it is expedient that the form of rate book directed to be kept by the orders now in force in the several unions, parishes, and places mentioned in the schedule hereunto annexed should be altered, as hereinafter provided.

Now, therefore, we the Poor Law Board, in pursuance of the statutes in that behalf made and provided, hereby order and direct that, on and after the sixth day of April next, the columns numbered respectively 2, 3, 8, and 9 in the form of rate book prescribed by the general or other orders above referred to in force in the unions, parishes, and places mentioned in the said schedule shall be omitted, and that the following form of declaration to be inserted at the foot of the rate shall be substituted for that prescribed by such orders.

FORM OF DECLARATION.

We, the undersigned, do hereby declare that one of us, or some person on our behalf, has examined and compared the several particulars in the respective columns of the above rate, with the valuation list made under the authority of the "Valuation (Metropolis) Act, 1869," and now in force in this parish [*or*], and the several hereditaments are, to the best of our belief, rated to the value appearing in such valuation list, and do declare that the total of the above rate amounts to pounds shillings and pence.

_____ } *Churchwardens.*
_____ }

_____ } *Overseers.*
_____ }

Amendment of 25 & 26 Vict. c. 103, s. 11.

74. The entry of the proceedings of the assessment committee at any meeting, and of the names of the members who attend that meeting, may be signed by the chairman of the next meeting of the committee, and every entry and minute purporting to be so signed shall be received in evidence in the same manner as if such entry or minute had been signed by the chairman of the meeting at which the proceedings took place and the members were present (*a*).

Saving of powers to value property not included in a valuation list.

75. Nothing in this Act shall in any way alter or affect the mode of valuing or taxing any hereditament which is not included in any valuation list, or which is chargeable according to the profits and not according to the gross value, or the mode of charging the occupiers of land subject to a tithe rentcharge in respect of such tithe rentcharge.

Separate assessment of houses for purposes of house duty, income tax, and licensing Acts.

76. Where for the purposes of the Acts relating to the duty on inhabited houses, or to the duties charged under Schedule B. of the Income Tax Act, or to the sale of exciseable liquors, it is necessary to make a separate valuation of any hereditament by reason of its not being separately valued in any valuation list, the

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SCHEDULE TO THIS ORDER.

UNIONS.

City of London.
Fulham.
Greenwich.
Hackney.
Holborn.
Lewisham.
Poplar.
Saint Olaves.
St. Saviour's.
Stepney.
Strand.
Wandsworth and Clapham.
Westminster.
Whitechapel.
Woolwich.

Parish of Saint Mary, Lambeth.
Hamlet of Mile-End-Old-Town.

Given under our hands, &c.

(*a*) See 25 & 26 Vict. c. 103, s. 11, *ante*, p. 228.

value of such hereditament shall be ascertained in the same manner as if this Act had not passed.

Repeal of Acts.

77. The enactments specified in the fifth schedule to this Act, and so much of any other Acts, whether public or local and personal, as authorizes any valuation of hereditaments to be made for the purposes of any rate or tax in respect of which the valuation list is by this Act made conclusive, are hereby repealed, where they relate only to the metropolis absolutely, and in other cases so far as they relate to the metropolis: Provided— Repeal of Acts herein described.

1. That the provisions of the Acts so repealed shall remain in force until the provision or provisions substituted for them by this Act shall respectively come into operation:
2. That this repeal shall not affect the validity or invalidity of anything done or suffered under any of the said provisions while they remain in force, or any right or title acquired or accrued under any of the said provisions while they remain in force, or any remedy or proceeding in respect thereof.

FIRST SCHEDULE.—(See sect. 4, *ante*, p. 269.)

DATE OF ACT.	SHORT TITLE USED IN THIS ACT.
10 Geo. 4, c. 44.	The Metropolitan Police Act.
5 & 6 Vict. c. 35.	The Income Tax Act.
14 & 15 Vict. c. 36.	The House Tax Act.
15 & 16 Vict. c. 81.	The County Rate Act.

SECOND SCHEDULE.—(See sect. 51, *ante*, p. 299.)

PART I.

Valuation List for *the parish or place for which the list is made*] in the metropolitan union of [*or* not being in union] in the county of

Number.	Name of Occupier.	Name of Owner.	Description of property.	No. of Class.	Name or situation of property.	Extent.	Gross value as estimated by overseers.	Gross value as estimated by surveyor of taxes.	Rate of deduction per cent.	Rateable value.	Gross value as finally determined by assessment committee.	Rateable value as finally determined by assessment committee.

Signed this day of

A.B., *C.D.* } Overseers of the poor of the parish aforesaid.

We do hereby approve the above valuation list, and certify that in determining the gross and rateable value of the above hereditaments the provisions of the Valuation (Metropolis) Act, 1869, have been duly complied with.

Signed this day of

A.B., *C.D.*, *E.F.* } Members of the assessment committe of the union.

Note.—The two last of the above columns for gross and rateable value as determined by assessment committee) must be filled up, and the totals of those columns must be added up after the objections to the alterations have (if any) been heard, and before the list is finally approved.

PART II.

Form of Certificate where no Supplemental List is sent.

We, the overseers of the parish of , do hereby certify that no alteration has taken place in the matters stated in the valuation list of this parish which renders a supplementary list necessary.

A. B., *C. D.* } Overseers of the parish of

THIRD SCHEDULE.—(See sect. 52, *ante*, p. 300.)

Showing the several classes into which the hereditaments inserted in a valuation list under this Act are to be divided.	Maximum rate of deductions. Per cent. or proportion.
Class 1. Houses and buildings, or either of them, without land other than gardens where the gross value is under 20*l.*	25 or $\frac{1}{4}$th.
„ 2. Houses and buildings without land other than gardens and pleasure grounds valued therewith for the purpose of inhabited house duty where the gross value is 20*l.* and under 40*l.*	20 or $\frac{1}{5}$th.
„ 3. Houses and buildings without land other than gardens and pleasure grounds valued therewith for the purpose of inhabited house duty where the gross value is 40*l.* or upwards	16$\frac{2}{3}$ or $\frac{1}{6}$th.
„ 4. Buildings without land which are not liable to inhabited house duty and are of a gross value of 20*l.* and under 40*l.*	20 or $\frac{1}{5}$th.
„ 5. Buildings without land which are not liable to inhabited house duty and are of a gross value of 40*l.* or upwards	16$\frac{2}{3}$ or $\frac{1}{6}$th.
„ 6. Land with buildings not houses	10 or $\frac{1}{10}$th.
„ 7. Land without buildings...	5 or $\frac{1}{20}$th.
„ 8. Mills and manufactories	33$\frac{1}{3}$ or $\frac{1}{3}$rd.
„ 9. Tithes, tithe commutation rentcharge, and other payments in lieu of tithe	To be determined in each case according to the circumstances and the general principles of law.
„ 10. Railways, canals, docks, tolls, waterworks, and gasworks	
„ 11. Rateable hereditaments not included in any of the foregoing classes	

The maximum rate of deductions prescribed in this schedule shall not apply to houses or buildings let out in separate tenements, but the rate of deductions in such cases shall be determined as in classes 9, 10, and 11.

FOURTH SCHEDULE.—(See sect. 73, *ante*, p. 310.)

FORM OF RATE.

Rate for the Relief of the Poor of the Parish of in the Union, and for other purposes chargeable thereon, according to law, made this day of in the year of our Lord 18 , after the rate of in the pound, which is estimated to meet all the expenses for the above purposes which will be incurred before the day of next.

No.	Name of occupier.	Name of owner.	Description of property rated.	Name or situation of property rated.	Rateable value.	Rate at in the pound.

DECLARATION TO BE ADDED TO THE RATE.

We, the undersigned, do hereby declare that one of us, or some person on our behalf, has examined and compared the several particulars in the respective columns of the above rate with the valuation list made under the authority of the Valuation (Metropolis) Act, 1869, and now in force in this parish (*or* township), and the several hereditaments are, to the best of our belief, rated according to the value appearing in such valuation list, and do declare that the total of the above rate amounts to pounds shillings and pence.

_____ } *Churchwardens.*
_____ }

_____ } *Overseers.*
_____ }

FIFTH SCHEDULE.—(See sect. 77, *ante*, p. 313)

43 Geo. 3, c. 161.—An Act for repealing the several duties under the management of the Commissioners for the Affairs of Taxes, and granting new duties in lieu thereof; for granting new duties in certain cases therein mentioned; for repealing the duties of excise on licenses, and on carriages constructed by coachmakers, and granting new duties thereon under the management of the said Commissioners for the Affairs of Taxes, and also new duties on persons selling carriages by auction or on commission	in part, namely,—
So much as relates to the mode of ascertaining the value of houses with respect to the value of which the valuation list is conclusive.	
48 Geo. 3, c. 55.—An Act for repealing the duties of Assessed Taxes, and granting new duties in lieu thereof, and certain additional duties to be consolidated therewith; and also for repealing the stamp duties on game certificates, and granting new duties in lieu thereof, to be placed under the management of the Commissioners for the Affairs of Taxes	in part, namely,—
So much as relates to the mode of ascertaining the value of houses with respect to the value of which the valuation list is conclusive.	
57 Geo. 3, c. 25.—An Act to explain and amend an Act made in the forty-eighth year of His present Majesty for repealing the duties of Assessed Taxes, and granting new duties in lieu thereof; and to exempt such dwelling houses as may be employed for the sole purpose of trade, or of lodging goods, wares, or merchandise from the duties charged by the said Act	in part, namely,—
So much as relates to the mode of ascertaining the value of houses with respect to the value of which the valuation list is conclusive.	
10 Geo. 4, c. 44.—An Act for improving the police in and near the metropolis	in part, namely,—
So much of sections thirty and thirty-two as relates to the ascertaining the value of any hereditaments with respect to the value of which the valuation list is made conclusive.	
6 & 7 Will. 4, c. 96.—An Act to regulate parochial assessments	in part, namely,—
Sections one, two, six, seven, and nine.	

5 & 6 Vict. c. 35.—An Act for granting to Her Majesty duties on profits arising from property, professions, trades, and offices until the sixth day of April, one thousand eight hundred and forty-five (in this Act called the Income Tax Act) ... ... } in part, namely,—

Section sixty. No. I.
No. II. pars. 1, 3.
No. IV. pars. 2, 4.
No. V. (so far as respects the deductions allowed by this Act.)

Section sixty-three. No. X. pars. 1, 2, 3, 4.

Sections sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, seventy-eight, eighty-one, eighty-two, eighty-seven, and any other part which relates to the ascertaining of the value of lands, tenements, and hereditaments with respect to the value of which the valuation list is made conclusive.

14 & 15 Vict. c. 36.—An Act to repeal the duties payable on dwelling-houses according to the number of windows or lights, and to grant in lieu thereof other duties on inhabited houses according to their annual value (in this Act called the House Tax Act) ... ... } in part, namely,—

So much as relates to the mode of ascertaining the value of houses with respect to the value of which the valuation list is conclusive.

15 & 16 Vict. c. 81.—An Act to consolidate and amend the statutes relating to the assessment and collection of county rates in England and Wales (in this Act called the County Rate Act) ... ... } in part, namely,—

So much of sections one to twenty, both inclusive, as relates to the preparation of a basis or standard of county rate for any part of the metropolis, and sections forty to forty-three, both inclusive.

16 & 17 Vict. c. 34.—An Act for granting to Her Majesty duties on profits arising from property, professions, trades, and offices ... ... } in part. namely,—

Sections thirty-two and forty-seven, and so much of the rest of the Act as relates to the mode of ascertaining the value of any hereditaments with respect to the value of which the valuation list is conclusive.

18 & 19 Vict. c. 120.—An Act for the better local management of the metropolis (Metropolis Management Act, 1855) ... } in part, namely,—

So much of sections one hundred and seventy-five and one hundred and seventy-nine as relates to ascertaining the value of any hereditament with respect to the value of which the valuation list is conclusive.

20 & 21 Vict. c. 64.—An Act for raising a sum of money for building and improving stations of the metropolitan police, and to amend the Acts concerning the metropolitan police	in part, namely,—
Sections eleven and twelve.	
21 & 22 Vict. c. 33.—An Act for the better management of county rates	in part, namely,—
Section one.	
25 & 26 Vict. c. 102.—An Act to amend the Metropolis Local Management Acts (The Metropolis Management Amendment Act, 1862)	in part, namely,—
So much of sections six, seven, and thirteen as authorizes or relates to the ascertaining the value of any hereditament with respect to the value of which the valuation list is conclusive, and so much of any Act as applies the provisions hereby repealed.	
25 & 26 Vict. c. 103.—The Union Assessment Committee Act, 1862	in part, namely,—
Sections, three, fourteen, fifteen, the following words in section seventeen, "and a copy of such valuation list shall be forthwith delivered to the board of guardians." sections twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, section twenty-eight down to "schedule hereunto annexed," sections twenty-nine, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-nine, forty-one, forty-two, forty-three, and forty-five.	
27 & 28 Vict. c. 39.—The Union Assessment Committee Amendment Act, 1864	in part, namely,—
Sections one, nine, and eleven.	
29 & 30 Vict. c. 64.—An Act to amend the laws relating to the Inland Revenue	in part, namely,—
Section seventeen, so far as it relates to the value of property.	
29 & 30 Vict. c. 78.—The County Rate Act, 1866	in part, namely,—
Section one.	
31 & 32 Vict. c. 122.—The Poor Law Amendment Act, 1868	in part, namely,—
Sections thirty, thirty-one, thirty-two, and thirty-eight.	

32 & 33 Vict. c. 71.

An Act to consolidate and amend the Law of Bankruptcy. [9th August, 1869.]

Preferential debts.

Sect. 32. The debts hereinafter mentioned shall be paid in priority to all other debts. Between themselves such debts shall rank equally, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves; that is to say,

(1.) All parochial or other local rates due from him at the date of the order of adjudication, and having become due and payable within twelve months next before such time (*a*).

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35 & 36 Vict. c. 68.

An Act to make provision for defraying the Expenses of building Barracks and otherwise providing for the Localization of the Military Forces. [10th August, 1872.]

Lands to continue subject to land tax and rates.

Sect. 11. All lands acquired by the said secretary of state in pursuance of this Act which were at the time of such acquisition subject to land tax, to poor or other rates, shall continue liable thereto.

(*a*) By section 125 (7) of the Act, under a liquidation the property of a debtor shall be distributed in the same manner as in a bankruptcy.

37 & 38 Vict. c. 54.

An Act to amend the law respecting the liability and valuation of certain property for the purpose of rates. [7th August, 1874.]

BE it enacted by the Queen's most excellent Majesty, by and with the consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as "The Rating Act, 1874.

Extent of Act.

2. This Act shall not apply to Scotland and Ireland.

Abolition of certain exemptions from rating.

3. "Whereas by the Act of the forty-third year of the reign of Queen Elizabeth, chapter two, intituled 'An Act for the Relief of the Poor,' it is provided that a poor rate shall be raised in every parish by taxation of, amongst other persons, every occupier of certain hereditaments in such parish; and it is expedient to extend the said Act and the Acts amending the same (which Act and Acts are in this Act referred to as the Poor Rate Acts), to hereditaments other than those mentioned in the said Act;" Be it therefore enacted that,—

From and after the commencement of this Act the Poor Rate Acts shall extend to the following hereditaments in like manner as if they were mentioned in the recited Act of the forty-third year of the reign of Queen Elizabeth; that is to say,

(1.) To land used for a plantation or a wood or for the growth of saleable underwood, and not subject to any right of common;

(2.) To rights of fowling, of shooting, of taking or killing game or rabbits, and of fishing when severed from the occupation of the land; and

(3.) To mines of every kind not mentioned in the recited Act.

Valuation of land used as plantation.

4. The gross and rateable value of any land used for a plantation or a wood, or for the growth of saleable underwood, shall be estimated as follows:—

(*a.*) If the land is used only for a plantation or a wood, the value shall be estimated as if the land instead of being a plantation or a wood were let and occupied in its natural and unimproved state:

(*b.*) If the land is used for the growth of saleable underwood, the value shall be estimated as if the land were let for that purpose:

(*c.*) If the land is used both for a plantation or a wood and for the growth of saleable underwood, the value shall be estimated either as if the land were used only for a plantation or a wood, or as if the land were used only for the growth of the saleable underwood growing thereon, as the assessment committee may determine.

Deduction of rate by tenant of plantation, &c.

5. Where the rateable value of any land used for a plantation or a wood, or both for a plantation or wood and for the growth of saleable underwood, is increased by reason of the same being estimated in accordance with this Act, the occupier of that land under any lease or agreement made before the commencement of this Act, may, during the continuance of the lease or agreement, deduct from his rent any poor or other local rate, or any portion thereof, which is paid by him in

respect of such increase of rateable value, and every assessment committee, on the application of such occupier, shall certify in the valuation list or otherwise the fact and amount of such increase.

Valuation and rating of rights of shooting, &c.

6. (1.) Where any right of fowling, or of shooting, or of taking or killing game or rabbits, or of fishing (hereinafter referred to as a right of sporting) is severed from the occupation of the land and is not let, and the owner of such right receives rent for the land, the said right shall not be separately valued or rated, but the gross and rateable value of the land shall be estimated as if the said right were not severed; and in such case if the rateable value is increased by reason of its being so estimated but not otherwise, the occupier of the land may, unless he has specifically contracted to pay such rate in the event of an increase, deduct from his rent such portion of any poor or other local rate as is paid by him in respect of such increase; and every assessment committee, on the application of the occupier, shall certify in the valuation list or otherwise the fact and amount of such increase.

(2.) Where any right of sporting, when severed from the occupation of the land, is let, either the owner or the lessee thereof, according as the persons making the rate determine, may be rated as the occupier thereof.

(3.) Subject to the foregoing provisions of this section the owner of any right of sporting, when severed from the occupation of the land, may be rated as the occupier thereof.

(4.) For the purposes of this section, the person who, if the right of sporting is not let, is entitled to

exercise the right, or who, if the right is let, is entitled to receive the rent for the same, shall be deemed to be the owner of the right.

Gross and rateable value of tin, lead, and copper mines.

7. Where a tin, lead, or copper mine is occupied under a lease or leases granted without fine on a reservation wholly or partly of dues or rent, the gross value of the mine shall be taken to be the annual "amount of the whole of the dues" payable in respect thereof during the year ending on the thirty-first day of December preceding the date at which the valuation list is made, in addition to the annual amount of any fixed rent reserved for the same which may not be paid or satisfied by such dues.

The rateable annual value of such mine shall be the same as the gross value thereof, except that where the person receiving the dues or rent is liable for repairs, insurance, or other expenses necessary to maintain the mine in a state to command the annual amount of dues or rent, the average annual cost of the repairs, insurance, and other expenses for which he is so liable shall be deducted from the gross value for the purpose of calculating the rateable value.

In the following cases, namely,—

1. Where any such mine is occupied under a lease granted wholly or partly on a fine; and
2. Where any such mine is occupied and worked by the owner; and
3. In the case of any other such mine which is not excepted from the provisions of this Act and to which the foregoing provisions of this section do not apply;

the gross and rateable annual value of the mine shall be taken to be the annual amount of the dues, or dues and rent, at which the mine might be reasonably expected to let without fine on a lease of the ordinary

duration, according to the usage of the country, if the tenant undertook to pay all tenants' rates and taxes and tithe rentcharge, and also the repairs, insurance, and other expenses necessary to maintain the mine in a state to command such annual amount of dues or dues and rent.

The purser, secretary, and chief managing agent for the time being of any tin, lead, or copper mine, or any of them, may, if the overseers or other rating authority think fit, be rated as the occupier thereof.

In this section,—

The term "mine," when a mine is occupied under a lease, includes the underground workings and the engines, machinery, workshops, tramways, and other plant, buildings (not being dwelling-houses), and works and surface of land occupied in conection with and for the purposes of the mine, and situate within the boundaries of the land comprised in the lease or leases under which the dues or dues and rent are payable or reserved:

The term "dues" means dues, royalty, or toll, either in money or partly in money and partly in kind; and the "amount of dues" which are reserved in kind means the value of such dues:

The term "lease" means lease or sett, or license to work, or agreement for a lease or sett, or license to work:

The term "fine" means fine, premium, or fore-gift, or other payment or consideration in the nature thereof.

Deduction of rate by tenant of mine.

8. Where any poor or other local rate which at the commencement of this Act any lessee, licensee, or grantee of a mine is exempted from being rated to in respect of such mine, becomes payable by him in respect of such mine during the continuance of his lease,

grant, or license, or before the arrival of the period at which the amount of the rent, royalty, or dues is liable to revision or re-adjustment, he may (unless he has specifically contracted to pay such rate in the event of the abolition of the said exemption) deduct from any rent, royalty, or dues payable by him one-half of any such rate paid by him :

Provided that he shall not deduct any sum exceeding what one-half of the rate in the pound of such poor or other local rate would amount to if calculated upon the rent, royalty, or dues so payable by him.

General provisions as to deduction of rates.

9. Where any occupier, lessee, licensee, grantee, or other person is authorized by this Act to deduct any rate or sum in respect of a rate from any rent, royalty, or dues payable by him, then—

(1.) Any payment so authorized to be deducted shall be a good discharge for such amount of rent, royalty, or dues as is equal to the amount of such payment, and shall be allowed accordingly.

(2.) Any payment so authorized to be deducted may be recovered as an ordinary debt from the person to whom the rent, royalty, or dues may be payable.

(3.) The person receiving the rent, royalty, or dues shall have the same right of appeal and objection with reference to the rate and to the valuation of the hereditament in respect of which the rate is payable as he would have if he were the occupier of such hereditament.

Liability of property to local rates as well as poor rates.

10. After the commencement of this Act the hereditaments to which the Poor Rate Acts are extended by this Act, and which are thus made rateable to the relief of the poor, shall be rateable to all local rates in

like manner as if the Poor Rate Acts had always extended to such hereditaments.

Commencement of Act.

11. This Act, for the purposes of enabling any hereditament to be included in or omitted from or valued for the purposes of a valuation list or a supplemental or provisional valuation list which will come into force after the 6th day of April, 1875, shall come into operation on the passing thereof, but save as aforesaid, or as is otherwise expressly provided by this Act, shall come into operation on the 6th day of April, 1875; and the expression "commencement of this Act" shall in this Act be construed accordingly.

As to provisions of Sanitary Acts as defined by 35 & 36 Vict. c. 79.

12. The provisions of the Sanitary Acts, as defined by the Public Health Act, 1872 (*a*), with respect to any special assessment of woodlands for the purpose of any rate under those Acts shall be deemed to extend to and include land used for a plantation or a wood, or for the growth of saleable underwood, or for both such purposes, and made rateable by this Act to the poor rate.

Saving as to mine where dues payable in kind.

13. Nothing in this Act shall apply to a mine of which the royalty or dues are for the time being wholly reserved in kind, or to the owner or occupier thereof.

43 Eliz. c. 2, as to saleable underwood.

14. So much of the Act of 43 Eliz. c. 2, intituled "An Act for the Relief of the Poor," as relates to the taxation of an occupier of saleable underwoods is hereby repealed as from the date at which the provi-

(*a*) The Public Health Act, 1872, has been repealed, and the "special assessment of woodlands" to general district rates is now regulated by sect. 211, sub-section (*b*), of the Public Health Act, 1875 (38 & 39 Vict. c. 55). They are to be assessed in respect of the same in the proportion of one-fourth part only of the net annual value thereof.

sions of this Act with respect to the taxation of occupiers of land used for the growth of saleable underwood come into operation.

Provided that this repeal shall not affect anything duly done or suffered before the said date, or any right acquired or liability accrued before the said date, or any legal proceeding or remedy in respect of such right or liability, and every such legal proceeding or remedy may be carried on and enforced in like manner as if this repeal had not been enacted.

Definitions of terms (see sect. 15 of 25 & 26 Vict. c. 103).

15 In this Act, unless the context otherwise requires,—

The term "gross value" has the same meaning as gross estimated rental in the Union Assessment Committee Act, 1862:

The term "local rate" means any county rate, borough rate, highway rate, and other local rate leviable upon property rateable to the relief of the poor:

The term "valuation list" means as regards any parish or place for which there is no valuation list, the poor rate:

The term "assessment committee" means, in relation to any parish or place where there is no assessment committee, the persons having power to make and assess the poor rate in such parish or place.

38 & 39 Vict. c. 33.

An Act to amend the Metropolis Management Acts.
[29th June, 1875.]

WHEREAS by section one hundred and sixty-three of the Metropolis Management Act, 1855, it is provided that any sewers rate raised under that Act shall, as regards all land used as arable, meadow, or pasture ground only, or as woodland, orchard, market garden, hop, herb, flower, fruit, or nursery ground, be assessed and levied in the proportion of one-fourth part only of the net annual value of such land.

And whereas by section one hundred and sixty-four of the same Act it is also provided that where any property was, at the time of the issuing of the first commission under the Act of the eleventh and twelfth years of Her Majesty, chapter one hundred and twelve, entitled to exemption from or to any reduction or allowance in respect of the sewers rate, such exemption, reduction, or allowance shall be observed and allowed in levying any sewers rate under that Act:

And whereas by virtue of the said recited Act, and the Acts amending the same, the Metropolitan Board of Works do assess the several parts of the metropolis according to the basis on which the printed totals of the valuation lists sent out by the clerk of the managers of the metropolitan asylum district under "The Valuation (Metropolis) Act, 1869," are made, and issue their precepts for sums of money which, by reason of the recited exemptions, cannot be levied upon some of the property included in such assessment, or can only be levied at one-fourth of the amount included in such assessment, whereby the parts of the metropolis wherein such exemptions exist are compelled to make a rate at an increased amount in order to meet such precepts:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :—

Metropolitan board of works to make abatement on assessment of parts of metropolis containing property exempt from sewers rate.

1. From and after the sixth day of April, one thousand eight hundred and seventy-six, the Metropolitan Board of Works, in every assessment made by them upon such parts of the metropolis as contain property wholly or partially exempt from sewers rate, and in the precepts issued for obtaining payment of the sums so assessed, shall make an allowance or abatement equal to the reduction or exemption which, under the one hundred and sixty-third and one hundred and sixty-fourth sections of the Metropolis Management Act, 1855, is required to be made in levying any rate for the purpose of meeting such precepts.

Totals of value of property so exempt to be inserted in valuation list.

2. The overseers and assessment committees acting under the Valuation (Metropolis) Act, 1869, shall cause the totals of the gross and rateable value of property so wholly or partially exempt from sewers rate, and the extent of such exemption, to be ascertained and inserted in the valuation lists which will come into force on the sixth day of April, one thousand eight hundred and seventy-six, and in every valuation list which shall thereafter be made by them.

Totals to be printed.

3. The said lists shall be sent by the assessment committees before the first day of November in each year to the clerk of the managers of the metropolitan asylum district, who shall print and send the said totals and extent of exemptions, with the other totals of gross and rateable value required to be printed and sent by the seventeenth section of the said Valuation (Metropolis) Act, 1869.

4. Any unfairness or incorrectness in the said totals and extent of exemptions may be apealed against in the manner provided for appealing against totals of gross or rateable value under section thirty-two of the Valuation (Metropolis) Act, 1869. Appeal in case of unfairness, &c.

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43 & 44 Vict. c. 7.

An Act to extend the Union Assessment Committee Acts to single parishes under separate Boards of Guardians. [19th July, 1880.]

WHEREAS under section forty-five of the Union Assessment Committee Act, 1862, as amended by subsequent Acts, it is provided that on the application of the body having the management of the relief of the poor in any union or incorporation under a local Act, the Local Government Board may order such union or incorporation to be included in the Union Assessment Committee Act, 1862, and it is expedient to make the like provision with respect to single parishes which are not included in any union of parishes either under a local Act or under the Poor Law Amendment Act, 1834: 25 & 26 Vict. c. 103, s. 45. 25 & 26 Vict. c. 103. 4 & 5 Will. 4, c. 76.

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same as follows:

1. This Act may be cited as the Union Assessment Act, 1880, and together with the Union Assessment Committee Act, 1862, and the Union Assessment Short title. 25 & 26 Vict. c. 103.

27 & 28 Vict. c. 39.

Committee Amendment Act, 1864, may be cited as the Union Assessment Acts, 1862 to 1880.

Application of 25 & 26 Vict. c. 103, s. 45, to single parishes under separate boards of guardians. 4 & 5 Will. 4, c. 76. 25 & 26 Vict. c. 103.

2. Section forty-five of the Union Assessment Committee Act, 1862 (*a*), shall apply to a parish which is not included in a union of parishes, and in which the relief of the poor is administered by a board of guardians elected under the Poor Law Amendment Act, 1834, or under any local Act, in like manner as near as may be as it applies to any union or incorporation for the relief of the poor formed under a local Act, and the Union Assessment Committee Act, 1862, and the Acts amending the same, shall be construed accordingly; and in relation to any such single parish the expression "common fund" in the said Acts shall be construed to mean the money applicable for the relief of the poor:

Extent of Act. 32 & 33 Vict. c. 67.

3. This Act shall not extend to the metropolis as defined by the Valuation (Metropolis) Act, 1869.

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43 & 44 Vict. c. 19.

An Act to consolidate Enactments relating to certain Taxes and Duties under the management of the Board of Inland Revenue.

[6th August, 1880.]

Parochial Books.

Inspection of parish books.

Sect. 39. The Land Tax and General Commissioners, surveyors, and assessors, or any person authorized by them, or any of them, shall have liberty from time to

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(*a*) See *ante*, p. 245.

time and at all seasonable times to inspect and to take copies or extracts from any book kept by any parish officer or other person of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, or any contributions under the management of the kirk sessions in any place within the limits for which they shall be appointed; and if any person in whose custody or power any of the said books shall be fails to permit the said inspection, or the copies or extracts to be made as aforesaid, or to attend the said Commissioners with such books when required so to do, he shall for every such offence incur a penalty of ten pounds. Penalty for refusal.

APPENDIX

III.

ORDERS OF COURT OF GENERAL ASSESSMENT SESSIONS.

ORDERS OF COURT regulating the proceedings on appeals and for determining the recognizances to be entered into by appellants.

TABLE OF FEES to be paid on appeals to clerks of special sessions and to the clerk of the court of general assessment sessions.

GENERAL ASSESSMENT SESSIONS,—

TO WIT.

AT the general assessment sessions holden by virtue of "The Valuation (Metropolis) Act, 1869," at the Guildhall, Westminster, on the twenty-third day of June, in the thirty-fourth year of the reign of our Sovereign Lady Victoria, and in the year of our Lord one thousand eight hundred and seventy, before Sir William Henry Bodkin, Sir Thomas Tilson, Edward Hugh Leycester Penrhyn, Esq., Henry Pownall, Esq., and Mr. Alderman Carter, orders under "The Valuation (Metropolis) Act, 1869," regulating the proceedings on appeals to the assessment sessions, and for determining the recognizances to be entered into by the appellants, were made, viz.:—

1. On every appeal to the special sessions from the decision of an assessment committee, the appellants

and one surety shall within seven days after giving the notice of appeal required by the said Act, enter into recognizances in the sum of £20 each, before a justice of the peace, acting in and for the division where the hereditaments, the subject of the appeal, may be situate, conditioned for the due prosecution of the appeal, and for the payment of the costs that may be ordered by the court of special sessions to be paid by the appellant, except that this order shall not apply to any assessment committee, to any overseers, or to any surveyor of taxes.

2. On every appeal to the assessment sessions from the decision either of an assessment committee or a special sessions, the appellant and two sureties shall, within seven days after giving the notice of appeal required by the said Act, enter into recognizances before two justices of the peace, acting in and for the division where the hereditaments, the subject of the appeal, may be situate, conditioned for the due prosecution of the appeal, and the payment of the costs that may be ordered by the court of assessment sessions to be paid by the appellant, and the amount of such recognizances shall be determined by such justices, having regard to the nature of the appeal, and so that the amount be not less than £50, except that this order shall not apply to any assessment committee, or any overseers, or to any surveyor of taxes (*a*).

3. All appeals to the assessment sessions shall be entered by petition, to be lodged with the clerk to the assessment sessions, on or before the 14th January next following the final approval of the valuation list or the

(*a*) See the subsequent orders of the general assessment sessions, dated respectively 23rd January, 1871, and 30th October, 1876, *post*, pp. 340, 341.

supplemental list, as the case may be, by the assessment committee.

4. In every case of appeal, the person or persons who shall be entitled by virtue of the said Act to appear as respondents to such appeal, and shall desire so to do, shall give notice in writing of their intention so to appear and shall therein state whether he or they intend to appear separately, or as joint respondents with any other person or persons, and such notice must be served on the clerk of assessment sessions, and on the appellant, before the expiration of fourteen days after the entry of the appeal, and the person or persons omitting to give such notice, shall not be entitled to be heard unless by special leave of the court, and then only upon such terms as the court may think fit to impose. The expression "person or persons" in this order, shall extend to and include any ratepayer, any occupier, any surveyor of taxes, any assessment committee, any overseers, and any body of persons authorized by the law to levy rates or require contributions payable out of rates.

5. On or before the first February next following the entry of any appeal, the appellant shall state his case and the facts to be proved, and the points of law (if any) to be argued in support thereof in writing, and shall serve on the clerk to the assessment sessions nine copies thereof for the use of the court, and one copy on each of the respondents; and in like manner each of the respondents shall, on or before the same day, state his case and the facts to be proved, and the points of law (if any) to be argued in support thereof in writing, and shall serve in like manner nine copies thereof for the use of the court, and one copy on the appellant (*a*).

(*a*) The statement of a case under Rule 5 must give substantial and detailed information to the other side similar to the

6. One counsel only for each party to the appeal shall be heard by the court (*b*).

7. The counsel for the appellant shall in every case begin, except when a surveyor of taxes is the appellant, in which case the counsel for the respondents shall begin. In all cases in which there shall be more than one respondent, and they shall be entitled to appear separately, their counsel shall be heard in the order determined by the court at the time.

8. In case the court shall ermine to refer the investigation of any matter, the subject of any appeal, to any person, the parties to the appeal may attend before such person and be heard by their counsel, or by their solicitors, and such person shall report the result of his investigation to the court. The costs of and incidental to such investigation shall be in the discretion of the court.

9. The costs ordered by the court to be paid by any of the parties to the appeal shall be taxed in the usual manner by the clerk of the assessment sessions.

10. The solicitors of the parties shall attend the clerk of the assessment sessions on the drawing up of any order of the court, at a time to be fixed by him.

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requirements in privy council appeals, although it need not set out every tittle of evidence. Railway companies would be expected to give to the parishes general information as to their figures, or it will be assumed that the figures do not tell in their favour.

(*b*) It is not intended to disallow the fees of two counsel, but only to curtail the oratorical services. See *Law Times* of 1871, p. 239.

11. Such of the expressions in these orders as are the same as those used in the said Act, shall respectively bear the interpretation given them by the said Act.

W. H. BODKIN, *Chairman.*

(Approved) H. A. BRUCE.

WHITEHALL,

18*th August*, 1870.

"VALUATION (METROPOLIS) ACT, 1869."

Fees to be paid to Clerks of Special Sessions on Appeals.

	s.	*d.*
For drawing notice of Special Sessions or of any adjournment thereof - - - - - -	5	0
For preparing and forwarding by post to each Justice residing and acting within the Division and to the Overseers of each Parish within the Division a duplicate of such notice 2s. 6d. each, the total amount being divided proportionately among the Parishes comprised in the Division, and the proportion due from each Parish to be paid by the Overseers - - - - -		
Fee to be paid by each Appellant at the time of entering his Appeal (inclusive of hearing Witnesses and Adjudication) - - - -	10	6
For the order on Appeal to Assessment Sessions-	5	0
For recognizances by Appellant and two Sureties	6	0
Notices to Sureties and Appellant (each) - -	1	0
For taxation of costs and order thereon when required - - - - - - - - -	5	0

General Assessment Sessions. At a Court of General Assessment Sessions, holden at the Guildhall, Westminster, on Thursday, the twenty-third day of June, 1870, the above Table of Fees was made.

W. H. BODKIN,
Chairman.

I hereby certify and declare that the Fees set forth in this Table are proper to be received by Clerks of Special Sessions in cases of Appeal under the "Valuation (Metropolis) Act, 1869."

H. A. BRUCE.

WHITEHALL,
18th *August*, 1870.

"VALUATION (METROPOLIS) ACT, 1869."

Fees to be paid to the Clerk of the Court of General Assessment Sessions in each case of Appeal.

	s.	*d.*
Entering Appeal	5	0
Hearing Fee	13	4
Drawing and recording every order of Court	5	0
Copy thereof	2	6
If exceeding five folios, at per folio	0	4
Order for Special Case	5	0
Drawing Case, at per folio (if not drawn by the parties' Solicitor)	1	0
Attending Chairman settling Case, for every hour's attendance	6	8
Copy of the Case as settled, at per folio (if not drawn by the parties' Solicitor)	0	4
Attending Chairman for signature	6	8

	s.	*d.*
Taxation of costs as between party and party if the amount be under £25 - - - -	5	0
And for every additional £25 - - - -	5	0
Swearing each Witness - - - - -	0	4
Each Subpœna - - - - - -	2	6

General Assessment Sessions.

At a Court of General Assessment Sessions, holden at the Guildhall, Westminster, on Saturday, the 30th July, 1870, the above Table of Fees was made.

W. H. BODKIN,
Chairman.

I hereby certify and declare that the Fees set forth in this Table are proper to be received by the Clerk of the Assessment Sessions in each case of Appeal under the "Valuation (Metropolis) Act, 1869."

H. A. BRUCE.

WHITEHALL,
18th *August*, 1870.

GENERAL ASSESSMENT SESSIONS,—

TO WIT.

AT the General Assessment Sessions, holden at the Guildhall, Westminster, on the 23rd day of January, in the 34th Year of the Reign of our Sovereign Lady Victoria, and in the Year of our Lord, 1871, before Sir William Henry Bodkin, Henry Pownall, Esq., Henry Morris Kemshead, Esq., Sir Thomas Tilson, T. M. Ryley, Esq., Captain Robertson, R.N., Mr. Alderman Finnis, and Mr. Alderman Carter, an Order under the Valuation (Metropolis) Act, 1869, regulating the proceedings on Appeals to Assess-

ment Sessions, and for determining the Recognizances to be entered into by the Appellants, was made, viz. :—

In every case in which it shall appear to the Court that for some reasonable cause the Recognizances directed by the order of the Court of the 23rd June, 1870, numbered 2, to be entered into by Appellants and their Sureties, or any of them have been omitted to be entered into in conformity with the said Order, and that some sufficient security for the payment of any Costs that may be awarded to be paid by the Appellant has been given in substitution or part substitution for the same Recognizances, the Court may, if it sees fit so to do, waive all or any of such Recognizances and proceed to hear the appeal, notwithstanding such omission. AND, if in any Case it shall appear to the Court that such substituted security as hereinbefore mentioned shall not be sufficient, the Court may, if it think fit so to do, order such increased or additional security to be given or entered into as to the Court may seem just, and may if necessary for the purpose of such Order being complied with postpone the hearing of such Appeal until such time and upon such terms and conditions as to Costs or otherwise as the Court shall think fit.

W. H. BODKIN,
Chairman of the Court.

(Approved)
WHITEHALL, 1st *February*, 1871.
H. A. BRUCE.

GENERAL ASSESSMENT SESSIONS.

AT a Court of General Assessment Sessions, holden under and by virtue of "The Valuation (Metropolis) Act, 1869," at the Guildhall, Westminster, on Monday,

the 30th day of October, in the 40th Year of the Reign of our Sovereign Lady Victoria, and in the Year of our Lord 1876, before Peter Henry Edlin, Esq., Q.C., Assistant-Judge, Edward Hugh Leycester Penrhyn, Esq., Thomas Marshall Rilcy, Esq., and Mr. Alderman Besley—

IT IS ORDERED,

That in every case in which it shall be desired by any Appellant to make a deposit of money in substitution or part substitution of the Recognizances required by the Order of the Court of the 23rd day of June, 1870, numbered 2, such sum of money shall be paid by him into the London and Westminster Bank to the Account of the Court of General Assessment Sessions, and the receipt given by the Bank for such payment shall be deposited with the Clerk of the Court, and be filed by him in proof of such payment, and such deposit shall in no case amount to less than £50.

By the Court,
EDWD. WM. BEAL,
Clerk to the Court.

(Approved)
WHITEHALL,
22nd November, 1876.
RICHARD ASSHETON CROSS.

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